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INVESTIGATION OF THE NEW YORK, NEW HAVEN & HARTFORD
AND GRAND TRUNK RAILROAD AGREEMENT

HEARINGS

BEFORE THE

COMMITTEE ON RULES

U. S. HOUSE OF REPRESENTATIVES

ON

H. RES. 718

DECEMBER 10 AND 11, 1912



WASHINGTON
GOVERNMENT PRINTING OFFICE
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INVESTIGATION OF THE NEW YORK, NEW HAVEN & HARTFORD AND GRAND TRUNK RAILROAD AGREEMENT.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., December 10, 1912.

The committee met at 11 o'clock a. m., Hon. Robert L. Henry (chairman) presiding.

STATEMENT OF HON. GEORGE F. O'SHAUNESSY, A REPRESENTA- TIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND.

The CHAIRMAN. Gentlemen, the committee has been called together for the purpose of having a hearing on House resolution No. 718, introduced by Mr. O'Shaunessy. Mr. O'Shaunessy, the committee will be glad to hear you.

Mr. O'SHAUNESSY. Mr. Chairman and gentlemen of the committee, I have thought it wise, in view of the many who will speak here to-day, to put the greater part of my remarks in writing.

The primary purpose of my resolution calling for the appointment of a special committee of seven Members to be selected by the House is to investigate the causes which lead to the cessation of work in Rhode Island and other New England States of railway construction work by the Southern New England Railway Co., which was chartered for general railroad purposes by the Rhode Island General Assembly on April 12, 1910. I might say I was a member of the Rhode Island Legislature at that time. The coming of the Southern New England Railway Co. into New England was hailed with unbounded joy by people who had suffered long from the grinding monopoly of the New York, New Haven & Hartford Railroad Co. The granting of the charter to the Southern New England Railway Co. was bitterly fought by the New York, New Haven & Hartford Railroad Co. The people of Rhode Island, however, gave full faith and credence to the statement made by the late Charles M. Hays, president of the Grand Trunk Railway when he said:

When any railroad or individual can find one atom of evidence that the good faith of the Grand Trunk or the word of its presidents has ever been broken, it will be time for a monopoly to breed suspicions of bad faith. But if those enemies of progress who have decided upon a dog in the manger policy in Rhode Island, want such slanders to bear fruit, they must seek some other soil than the reputation and record of the Grand Trunk Railway.

The charter was accordingly granted, and the Grand Trunk Railway, after overcoming legislative obstacles in New Hampshire and Massachusetts interposed by the New York, New Haven & Hartford Railway Co., and which obstacles might be looked upon as a fulfillment of President Mellen's declaration, "I will take care of the new road outside of Rhode Island," started its work amid general rejoic-

ing and the fond expectation that a real rival had at last challenged the monopolistic supremacy of the New Haven road. President Hays of the Grand Trunk went to his death on the *Titanic*, and it appears that honor died with him so far as sacred promises and pledges were concerned. A generous people whose State has been torn wide open have been outrageously betrayed. The photographs which I show you for inspection tell the story more eloquently than any words of mine. The diabolical hand of a monopoly which brooks no interference is revealed in an abandoned project on which \$1,500,000 had been spent, and on which a total expenditure of \$4,000,000 had been contracted by way of damages, condemnation suits for involved property, and repairs. Adding insult to injury, the autocratic president of the New York, New Haven & Hartford Railway Co., in explanation of the abandoned work, is reported to have said on November 12 of this year:

I have no knowledge of the discontinuance of the work on the Southern New England Railway about Providence, and, if work has been discontinued, it has probably been for some local reason, the weather, financial, or some reason of that kind, and of which I am not advised.

This statement was made in the face of repeated conferences which had been held between Mr. Chamberlain, the president of the Grand Trunk, and Mr. Mellen, the president of the New York, New Haven & Hartford Railway. To the inquiries of indignant city and State officials impudent answers were given by Mr. Chamberlain, who shouldered the burden of explaining over to Mr. Fitzhugh, the president of the Southern New England Railway Co.

A striking coincidence of the changed attitude of the Grand Trunk officials is the recent visit to London of J. Pierpont Morgan, who no doubt conferred with the executives of the Grand Trunk Railway in that city.

Mr. WILSON. Mr. O'Shaunessy, before you go any further, will you kindly tell us the condition of this railroad now? We are not familiar with it; at least I am not.

Mr. O'SHAUNESSY. Mr. Bliss, the chairman of our public utilities commission, is more familiar with that aspect than I am, and I thought I would leave the matter of the physical situation to him and the mayors of the cities through which the railroad was laid out.

Dr. FOSTER. You mean in reference to these pictures?

Mr. O'SHAUNESSY. Yes.

Dr. FOSTER. Have they abandoned this work?

Mr. O'SHAUNESSY. It has been abandoned; yes.

Twenty-three hundred men who were engaged in the construction work of the Southern New England Railway were laid off on 24 hours' notice. On November 18 of this year 360 carloads of new steel rails and fastenings, valued at over \$500,000, arrived at Palmer, Mass., consigned to the Southern New England Railway. The absurdity of the financial stringency excuse is apparent when one realizes that the Grand Trunk is continuing its labors in the West and has engaged 6,000 men in its railroad race to the Pacific Ocean, at a tremendous expenditure.

This suppression of corporate rivalry by the New York, New Haven & Hartford Railway Co. is characteristic of that road's management under President Mellen. His gobbling up of railroads, trolley lines, and steamship lines at exorbitant figures, which can mean nothing

short of a reduced public service, have left one of the richest territories in the world at the mercy of his absolute and domineering grasp. I contend that it is time for a complete and thorough investigation, not only of the recent exhibition of an engrained and vicious practice but of all the transactions on the part of this railroad company which has given to the people a monstrosity of a water-logged corporation with a corresponding diminution of effective public service. The instance alone of the purchase of the Rhode Island trolleys for \$24,000,000, an advance of \$15,000,000 over the capitalization of these lines by their original exploiters is a sample of the Mellen financing, which finds its true reflection in antiquated rolling stock, successive wrecks, lower prices for its securities, and a gulled public. Some other enlightening transactions are noted in the purchase by the New Haven road at \$86 a share of the stock of the Bennington & North Adams Street Railway Co., which had never earned a dollar and which later went into insolvency; of the purchase of the Berkshire Street Railway Co. at \$149 a share in the face of the fact that the stock had never paid more than 2 per cent; of the purchase at \$320 a share for the stock of the Hartford Street Railway Co. which had not paid more than 6 per cent in any of the five years preceding the sale. These and many other purchases have been made by the New Haven road through bond issues. Heavy fixed charges on many millions of funded debt have been incurred in order to secure possession of companies with doubtful earning capacity. The policy of this road had been to control and gobble up every plant that stood in the way of its absolute monopoly.

Water competition has been eliminated by the New Haven road, so that the shipper seeking relief from the excessive freight charges of the railroad finds himself in the clutches of the same corporation although he sends his freight by sea. Up to the time when the New Haven began purchasing steamboat lines there were 10 independent steamboat lines from New York to different ports in New England. All of these lines are now owned and controlled by the New Haven Railroad. The same extravagant policy was employed in the purchase of the steamship lines as in the purchase of the offending trolley lines. I am informed that as a result of this policy the New Haven road has failed in four out of the last five years to earn the dividends of 8 per cent which it has paid. Instead of its stock selling at 255, which was the quoted price a few years ago, it is now selling around 130. This road has increased its investment in road and equipment in the last 10 years by about \$130,000,000, which is hardly more than one-third of its extraordinary increase in capital. Its capitalization has grown in 10 years from \$87,000,000 to over \$450,000,000, an increase in the 10 years of \$363,000,000, or 416 per cent.

Under efficient management one would look for steel cars and a safe roadbed. On the contrary, we find that from June 8, 1911, to November 17, 1912, a period of 17 months, there have been nine wrecks, with casualties totaling 29 killed and 242 injured. The controlled trolley lines in Connecticut from 1901 to 1911 show a total of 358 killed and 10,981 injured. Most of the railroad wrecks—not trolley—have occurred on the main four-track line between New York and New Haven, upon which there are hundreds of rotten ties. During the 10 years ending June 30, 1911, a percentage

of 285 new locomotives, 661 new passenger cars, and 26,084 new freight and company cars, in addition to former equipment, have pounded over these old ties. What answer can be made to the action of Mayor Fiske, of Mount Vernon, N. Y., who picked with his bare fingers 36 rusty spikes within a quarter of a mile from the rotten ties of the New Haven road? The highest American civilization is to be found traveling between New York and Boston and is left at the mercy of a corporation which thinks more of its strangulation of real and threatened competition than it does of human life.

A special committee is needed to investigate the situation, against which a long-suffering public revolts. Standing committees charged with manifold duties can not do this great question ample justice. The rapacity of the New Haven road and its insolent treatment of reasonable demands have provoked an agitation which appeals to Congress for relief. Governors, mayors, civic bodies, boards of trade, manufacturers, and citizens in general, backed and sustained by the press, indorse this resolution and ask for a favorable report thereon.

I want to read one affidavit illustrative of manufacturing conditions in Rhode Island as affected by the Grand Trunk situation. This is with reference to the Lonsdale Co., of which Mr. Robert I. Gammel is treasurer.

The Lonsdale Co. is a Rhode Island corporation, chartered in the year 1834, which has built up a considerable business in cotton manufacturing and also in bleaching and finishing cotton piece goods.

Its principal plant is at Lonsdale, R. I., where it operates two large mills and a bleachery. Lonsdale is a station located upon the Worcester branch of the New York, New Haven & Hartford Railroad Co., situated on the west side of the Blackstone River. From this branch the Lonsdale Co. some years ago built a spur track to its mills and bleachery on the west side of the river, and at this station, known as the Lonsdale Bleachery Station, large quantities of freight are handled daily. The inward shipment of freight may be estimated at 300 tons per week and the outward shipment may be estimated at 300 tons per week also. The average number of cars leaving the Lonsdale Bleachery daily is 11 or 12.

The Lonsdale Co. has no freight facilities except over the New York, New Haven & Hartford Railroad, and is obliged to pay the local rates which that company exacts. The Lonsdale Co. consumes about 30,000 tons of coal per annum, and the rate of freight charged by the New York, New Haven & Hartford Railroad for hauling this coal from tidewater to Lonsdale, a distance of $6\frac{1}{2}$ miles, is 50 cents per ton.

Late in the winter of 1910 we were advised that the Southern New England Railway, controlled by the Grand Trunk Railway of Canada, proposed to build a line from its station at Palmer to tidewater at the port of Providence. As it seemed to us that this railroad would give us new facilities for both inward and outward freight, we sought a consultation with its representative in Providence. In March of 1911 the vice president of the Southern New England Railway, Mr. Murdock, brought into the office of the Lonsdale Co. a layout of their proposed road, which indicated that they could give us a spur track at the Lonsdale Bleachery Station with facilities for handling freight much better than we have had from the New York, New Haven & Hartford Railroad. The connections which the Southern New England Railway had with the West, through the Grand Trunk, were direct, and he gave us to understand that they had arranged for docks in Providence which would give them advantageous facilities for handling freight at tidewater.

Mr. Murdock brought in the plan of a layout for the new railroad which required the conveyance on our part of 1,315,219 square feet of land. This land the Southern New England Railway had the power to take by process of condemnation, under the charter it received from the State of Rhode Island. But the Lonsdale Co. entered into an agreement to sell this land to the railroad for a stipulated sum, and we have a contract signed by Mr. Murdock to this effect, dated August 24, 1912. Accompanying this affidavit is a tracing which shows the most valuable and important part of the Lonsdale Co.'s land taken by the Southern New England Railway. It also shows with a short red line the spur track which they proposed to build for handling freight from

the Lonsdale Bleachery Station. The Lonsdale Co. has performed its part of its contract with the railroad company and has allowed the contractors of the road every facility for handling freight upon its tracks for the storage of machinery and tools and for the housing of its employees. The property of the Lonsdale Co. has been cut by the railroad for a distance of $2\frac{1}{2}$ miles. One of the company's principal roadways has been occupied by the tracks of the railroad, and a cut has been made across the main street of the village through a hill, which is now an embankment of sand 30 feet high, left unfinished and unbridged. All work was progressing satisfactorily when, suddenly, on November 9, an order came to stop, and on Sunday, November 10, everything was abandoned.

The beauty of our village has been greatly injured; tracts of land which were valuable for building purposes have been cut so deeply that nothing but an expensive fill will restore them to their original condition; huge trees have been destroyed in all directions, and the property of the Lonsdale Co., stretching along the valley of the Blackstone River, looks as if an enormous steam shovel had dug its way through with no apparent object whatever.

The Lonsdale Co. wishes it known that it has paid exorbitant rates of freight to the New York, New Haven & Hartford Railroad Co. for many years, and that it has suffered many disadvantages from doing business upon its line. To illustrate: If the Lonsdale Co. were in a large city, it would deliver its merchandise to the New York, New Haven & Hartford Railroad freight house, where it could be loaded on cars by the employees of the railroad. At the Lonsdale Bleachery Station the New York, New Haven & Hartford Railroad Co. has persistently refused to furnish men to help load freight on their cars, and therefore the Lonsdale Co. is obliged to load all freight for the New York, New Haven & Hartford Railroad, making it necessary to keep several freight handlers in employ every day in the year. It is not an uncommon thing for some article of freight to be one week in coming from Boston to Lonsdale, being handled on the different branches of the New York, New Haven & Hartford Railroad. It frequently happens, though perhaps less so now than formerly, that the Lonsdale Co. is kept waiting for cars by which to make its shipments of freight to the far West.

The Lonsdale Co.'s greatest grievance, however, is the rate charged by the New York, New Haven & Hartford Railroad for the local haul within the State of Rhode Island of coal from tide water, a distance of $6\frac{1}{2}$ miles. This rate, as before stated, is 50 cents a ton. A few years ago, before the Rhode Island Co., which controls the street railways of the State, was absorbed by the New York, New Haven & Hartford Railroad Co., the shipper of coal with whom the Lonsdale Co. deals assured us that he could make an arrangement with the Rhode Island Co. to haul our coal from tide-water to Lonsdale for 30 cents a ton if we would build a small stretch of track (less than a quarter of a mile) in the village of Lonsdale. The Rhode Island Co. had the right under its charter to haul coal or other freight at night. We were about to carry out this suggested arrangement when the Rhode Island Co. was absorbed by the New York, New Haven & Hartford Railroad. It is thus obvious that we, together with all corporations hereabouts, are held absolutely in the grasp of the New York, New Haven & Hartford Railroad and subject to their demands for whatever freight rate they choose to ask.

LONSDALE CO.,
By R. L. GAMMELL, *Treasurer.*

STATE OF RHODE ISLAND, *Providence*, ss:

Subscribed and sworn to before me this 7th day of December, A. D. 1912.

[SEAL.]

CHARLES S. PETTEE,
Notary Public.

Mr. Pou. Mr. O'Shaunessy, are these rates complained of local or interstate rates?

Mr. O'SHAUNESSY. That I am not in a position to say. I presume the president or the vice president of the New Haven Road, who is here, will be able to enlighten us upon that.

Mr. Pou. Has any appeal for relief been made to the Interstate Commerce Commission against these exorbitant rates of which you speak?

Mr. O'SHAUNESSY. That I do not know.

Mr. WILSON. What business is the man you refer to engaged in?

Mr. O'SHAUNESSY. In the manufacture of cotton.

Mr. WILSON. Then I presume their business is almost entirely interstate?

Mr. O'SHAUNESSY. Yes.

Mr. WILSON. And the rates are very likely interstate rates?

Mr. O'SHAUNESSY. I should think they were.

Mr. FOSTER. I presume this coal is shipped by water.

Mr. O'SHAUNESSY. Partly by water and the rest by rail.

Mr. FOSTER. Does this company own the ships which bring this coal there?

Mr. O'SHAUNESSY. I do not know whether they own the ships that bring the coal, but they own every method of transportation by rail and water between New York and Providence and between Boston and New York.

Mr. FOSTER. Is there a shipping arrangement between the water transportation company who own the ships and the railroads with reference to those rates, or do you know?

Mr. O'SHAUNESSY. That I do not know. Mr. Buckland can enlighten us on that.

With your permission I will read a few telegrams which I have received.

PROVIDENCE, R. I., December 9, 1912.

GEORGE F. O'SHAUNESSY, ESQ.,

Congressman from Rhode Island, House of Representatives, Washington, D. C.:

Regret absolute inability at this season to get away from business. Gov. Pothier and Mayor Fletcher, members of town criers, indorse unqualifiedly their and your stand on Grand Trunk matter. Wiring Committee on Rules to that effect and regarding investigation committee.

FREDERICK W. ALDRED,

Chief Crier, Town Criers of Rhode Island.

BRIDGEPORT, CONN., December 9, 1912.

Congressman F. O'SHAUNESSY,

Washington, D. C.

MY DEAR SIR: Your telegram received. I am interested in the work that you are doing, but I am unable to go to Washington Tuesday.

Respectfully,

SAMUEL E. VINCENT.

PAWTUCKET, R. I., December 9, 1912.

GEO. F. O'SHAUNESSY,

Member of Congress, Washington, D. C.:

I regret sincerely my inability to go to Washington for public hearing. I am heart and soul in favor of your resolution, hoping that Congress will pass the same.

F. X. L. RATTEY,

Mayor of Central Falls, R. I.

SOUTH NORWALK, CONN., December 9.

Representative O'SHAUNESSY,

Washington, D. C.:

Regret prior engagement prevents counsel of Connecticut Commuters' League being heard before Rules Committee to-morrow. We will support any movement to check-mate Mellen's inordinate ambitions. The New Haven's huge overcapitalization must be disintegrated into original units and its tremendous fixed charges reduced. In no other way can the road appropriate sufficient money for proper maintenance of way and operation items and thus save the lives of the public and give decent service.

CHARLES BATES BANA,

Counsel for Connecticut Commuters' League.

NASHUA, N. H., *December 9, 1912.*

GEO. F. O'SHAUNESSY,
Congressman, Washington, D. C.:

Unable to attend hearing to-morrow. Citizens of Nashua and State generally demand relief from railroad monopoly. Trust your committee will sift whole situation thoroughly.

W. H. BAKER, *Mayor.*

PROVIDENCE, R. I., *December 9, 1912.*

HON. GEO. F. O'SHAUNESSY,
House Office Building, Washington, D. C.:

Regret inability to attend hearing on Grand Trunk matter Tuesday. Am wiring Mayor Fletcher to represent our exchange before committee.

B. THOMAS POTTER,
Chairman Special Committee on Grand Trunk of Providence Real Estate Exchange.

DECEMBER 8, 1912.

HON. GEORGE F. O'SHAUNESSY,
House of Representatives, Washington, D. C.:

I greatly regret that illness in my family prevents my leaving here, else I would gladly appear in behalf of your resolution for an investigation of the New Haven road. The influence of the New Haven road has been so corrupting in Connecticut that I can think of nothing as harmful to the moral and commercial welfare of the New England States as a continuance of its practices and domination. Suggest if you have no one from Bridgeport, Conn., that Samuel E. Vincent, of that city, could help you.

FRANK S. BUTTERWORTH.

BOSTON, MASS., *December 9, 1912.*

GEORGE F. O'SHAUNESSY,
House of Representatives, Washington, D. C.:

Message just received. Regret inability to be present.

D. IVES.

NEW HAVEN, CONN., *December 8, 1912.*

HON. GEORGE F. O'SHAUNESSY,
Member of Congress, House of Representatives, Washington, D. C.:

I greatly regret that illness in my family prevents my leaving here, else I would gladly appear in behalf of your resolution for an investigation of the New Haven road. The influence of the New Haven road has been so corrupting in Connecticut that I can think of nothing as harmful to the moral and commercial welfare of the New England States as continuance of its practices and domination. Suggest, if you have no one from Bridgeport, Conn., that Samuel E. Vincent, of that city, could help you.

FRANK S. BUTTERWORTH.

PROVIDENCE, R. I., *December 8, 1912.*

HON. GEORGE F. O'SHAUNESSY,
House of Representatives, Washington, D. C.:

Deeply regret can not accept Washington invitation. Would strongly emphasize local need greater than mere competition. Providence metropolitan district, 490,000 people, has no possible express service north or west. No railroad whatever north-west. Needs hole broken through Chinese wall separating southern ocean gateway of New England from Connecticut Valley and beyond. Tired having to go to New York or Boston to change cars to get anywhere. Central New England, no less than Rhode Island, pays penalty. Absurd artificial conditions. Heartily approve your enterprise.

HENRY A. BARKER.

BOSTON, MASS., *December 7, 1912.*

GEORGE F. O'SHAUNESSY,
Member of Congress, Washington, D. C.:

My engagements are such can not conveniently attend hearing next Tuesday. Chairman MacLeod is arranging to attend and will represent my views in the matter.

GEORGE W. BISHOP.

BOSTON, MASS., *December 9, 1912.*

GEORGE F. O'SHAUNESSY,
Member of Congress, Washington, D. C.:

Fruit & Produce Exchange can not be present Tuesday. We favor every effort to clear the railroad situation and to aid New England.

ALTON E. BRIGGS.

PETERBORO, N. H., *December 6, 1912.*

Hon. G. F. O'SHAUNESSY,
House of Representatives, Washington, D. C.:

Am in favor of a congressional investigation which will bring all the facts relative to the relations between Grand Trunk and New Haven Railroad. Sorry, but an engagement in Chicago will prevent my being in Washington Tuesday next.

R. T. BASS.

PROVIDENCE, R. I., *December 9, 1912.*

Hon. GEORGE F. O'SHAUNESSY,
House Office Building, Washington, D. C.:

Party leaves here 9.10 morning. Stop at New Willard.

HENRY FLETCHER, *Mayor.*PROVIDENCE, R. I., *December 6, 1912.*

Hon. GEORGE O'SHAUNESSY,
House of Representatives, Washington, D. C.:

Referred your telegram to Harry Mays, president Jewelers Association. Good luck.

HARRY CUTLER.

This resolution also has the hearty indorsement of Gov. Foss, of Massachusetts, and Gov. Pothier, of Rhode Island, whose representatives are here to-day to say something to us. I had a letter this morning which I think is well worth reading. Inasmuch as all of the letters are of the same tenor, condemnatory of the New Haven road and asking for the appointment of this committee, I shall leave them for your committee to go over at your further leisure; but this one which I got this morning with some photographs I think is well worth reading:

195 WATERMAN STREET, PROVIDENCE, R. I.

Representative O'SHAUNESSY.

MY DEAR SIR: Your activity in behalf of the citizens of our State on account of the suspension of the work of the Grand Trunk road here calls forth our highest approbation, and all hope the work may be resumed at a time not far distant. Many photographs have been taken, so you possibly have an idea of the chaotic condition of our streets and properties. But while the greater part of them can be restored in time to some sort of order, this place, of which I send rather poor picture, is ruined beyond any hope of restoration.

It was my childhood home; my birthplace. An estate of about 20 acres, ornamented by a fine grove of 72 chestnut trees, hedges, etc. The Grand Trunk entered without leave or license, removed a rentable house for site of abutment on Cranston Street, tore up walls, cut down and destroyed all trees, shrubs, etc., in the way of a diagonal cut across the place to Cranston Street. All the walls and about half the grand trees were used in the construction of an embankment about 30 feet high. This embankment runs close to the house, almost grazing it, ultimately planned to cut a part off, rendering it untenable. And it has cut off all access from the house to the street, so the only way to reach the house is a long roundabout detour from the rear across fields.

We have not received one cent for all this devastation and had made up our minds to submit to the exigencies of progress and obtain what damages we could when the road was finished. But now that the work has been abandoned our grievance has become a very real one demanding redress, and one which we hope will be alleviated if your efforts meet with the success they merit. And if you can use these photographs in any way to give stress or weight to your arguments please do so.

May all success attend your good work.

Very sincerely, yours,

M. HELEN POTTER.

That letter is merely illustrative of many others who are in the same condition. As I say, property has been destroyed and Rhode Island has been left in a most chaotic condition physically, and I think the situation is one which demands attention, and when my statement is supplemented by others whom I will call in support of the resolution, I hope your committee will take a favorable view of the matter.

The CHAIRMAN. Are there any other investigations on foot either by the Federal Government or any of the State governments in regard to these matters?

Mr. O'SHAUNESSY. The Attorney General at present is presenting the facts in the case to the Federal grand jury at New York, perhaps with a view to indictment. Of course the presentation of a case to a grand jury is secret and many facts otherwise obtainable can not be obtained before a grand jury.

The CHAIRMAN. Why are the facts being presented in New York? How do they get jurisdiction there?

Mr. O'SHAUNESSY. I think the agreement between Mr. Mellen and Mr. Chamberlin as to the abandonment of the work and a possible compensation to the road which had agreed to do the work was made there, so that would give them jurisdiction. I made a request yesterday of the Attorney General's office over the phone, not to Mr. Wickersham but to one of his assistants, for a copy of the traffic agreement which I understood had been entered into between the New York & New Haven Railroad and the Grand Trunk Railway, and I was informed I could not have a copy of it inasmuch as the circumstances under which it was obtained did not warrant showing it at this time.

Mr. POW. As I understand it, Mr. O'Shaunessy, the overt acts which you think indicate a violation of the Sherman antitrust law occurred on and since November 9th?

Mr. O'SHAUNESSY. Yes, sir.

Mr. LINDBERGH. In this particular matter?

Mr. O'SHAUNESSY. Yes, in this particular matter. Of course, I believe, as do all the people of New England, that the whole story of the New Haven road is a violation of the State and Federal laws in the sense it has gone about to check and throttle competition wherever competition has shown its head, so to-day we are absolutely within the grasp of the New Haven road.

Mr. FOSTER. You do not mean to say that all these overt acts have occurred since the 9th of November?

Mr. O'SHAUNESSY. Oh, no; this particular one of tearing up our State and getting the Grand Trunk Railroad to abandon this work for presumably a favorable consideration.

The CHAIRMAN. When was this alleged throttling of competition first presented to the Attorney General by the citizens of your section of the country?

Mr. O'SHAUNESSY. I think Mr. Bliss, who will follow me, will be able to enlighten us upon that subject, because he has appeared before the Federal grand jury.

Mr. LINDBERGH. Are you familiar with the litigation once begun by the Federal Government against the New York & New Haven Railroad and afterwards dismissed, three or four years ago?

Mr. O'SHAUNESSY. I am not. Mr. Norman H. White will enlighten us, perhaps, upon that feature of the matter.

Mr. HARDWICK. Mr. O'Shaunessy, do we need any change in existing law to meet any of the conditions you allege here; in other words, is the existing Federal law complete and ample to meet the conditions, if it is fairly enforced?

Mr. O'SHAUNESSY. That I can not say.

Mr. HARDWICK. Is it the object of the investigation to point out what changes we need in existing law?

Mr. O'SHAUNESSY. I presume so. I surely think so.

Mr. HARDWICK. It seems to me you are the man who ought to know, because you offer the resolution. In other words, is it your idea simply to have an investigation of the facts or do you think the existing law is incomplete and inadequate and that an investigation of the facts will disclose some duty of Congress in the premises?

Mr. O'SHAUNESSY. The way I look upon the investigation is this: Of course, there is always the hope that there will be a revelation of such facts as will suggest remedial legislation. I think every investigating committee has determined that question in that way. The temper, however, of the people of New England is to have a thorough exposition of this deal in particular and of everything back of it.

Mr. HARDWICK. I presume that you yourself as a Member of Congress would be inclined to the view that unless there is something that Congress should do in the premises, we could not simply advertise the situation by the establishment of a committee.

Mr. O'SHAUNESSY. Surely not; unless there were supplementary facts to present it would be unavailing.

HOUSE OF REPRESENTATIVES, UNITED STATES,
COMMITTEE ON PATENTS,
Washington, D. C., December 7, 1912.

HON. GEORGE F. O'SHAUNESSY,
House of Representatives, Washington, D. C.

DEAR MR. O'SHAUNESSY: In reference to the New Haven-Grand Trunk fiasco, in which you have interested yourself, don't overlook the fact that this matter is of much importance to the third Massachusetts district. The Southbridge people in said district are much disturbed about it. Call on me if I can be of any assistance in your plans, although I understand for the moment that the activities of the Attorney General's Department make unnecessary activity at the moment.

Very truly, yours,

WILLIAM H. WILDER.

50 SOUTH MAIN STREET,
Providence, R. I., December 7, 1912.

HON. GEORGE F. O'SHAUNESSY,
House of Representatives, Washington, D. C.

DEAR SIR: We see in the newspapers that there is to be a hearing before the Rules Committee of the House on Tuesday on the matter of the relations between the Grand Trunk and the New Haven in New England. This firm, operating many mills in different parts of the State, has for a long time felt that we were subject to unjust rates and none too good service from the New Haven road. When the Grand Trunk, or Southern New England, line was projected, we welcomed the competition with great satisfaction. We agreed to sell 1,300,000 square feet of land to the Southern New England at a very low price and we arranged with them to give us a spur track at the Lonsdale Bleachery Station, where a large amount of freight is handled each week. This spur track, if the Southern New England Railway is ever completed, will carry our products to the West over the Grand Trunk connections and to tidewater at the new docks in Providence. Incoming freight, like coal and cotton, would also be delivered to us at rates which we think would be materially less than that charged by the New Haven, especially on local hauls where the New Haven is not restrained by the Interstate Commerce Commission.

It is impossible for the writer, who is the treasurer of the Lonsdale Co., to attend the meeting on Tuesday, but he has thought it best to prepare the inclosed affidavit, which can be read before the committee and which in simple language tells the story of how our interests as large shippers of freight are affected by the New Haven-Grand Trunk deal.

Your kind attention in this matter is solicited.

Very truly, yours,

GODDARD BROS.,
Agents.

METROPOLITAN PARK COMMISSION,
Providence, December 8, 1912.

MY DEAR MR. O'SHAUNESSY: I have already sent you a telegram stating my regret at being unable to go to Washington for Tuesday's hearing. Success attend your enterprising efforts. I have hurriedly prepared several exhibits that I believe have a significant bearing upon the logical need for railroad connections, as well as for harbor developments. The harbor is better provided for to-day than the railroads are. but nature did most of that—more in fact than she did in most of the present world famous harbors. My figures about distances to South America, etc., are taken from Boston Chamber of Commerce, with alteration for Providence as against Boston. I did not believe them at first until I studied a big globe and measured them for myself.

Of course we need competition by water to New York and by rail to other places, but especially we need some rail connection in that direction where we now have absolutely none, i. e., toward Springfield, where connections could be made with Canadian and western points. I suppose if there was a modern railroad with proper grades, curves, etc., like the splendidly designed one of the Southern New England Co., the Interstate Commerce Commission or other Government agency would compel the connecting railroads to handle "through" traffic. This projected but now interrupted enterprise meant more than merely a competing line, because you can't have competition with something that doesn't exist. I believe that this is fully as important to the Palmer-Springfield neighborhood and all beyond, as it is to Rhode Island, because it would give them outlet and inlet at their natural water gateway on the ocean. In a straight line Palmer is 55 and Springfield 66 miles from the Providence city hall. The quickest way to get to them is in an automobile.

I suppose the railroads figure that a certain quantity of business will be handled, anyway, and they have no especial object in shortening the distance around Robin Hood's barn. Perhaps, also, some of the New York and Pennsylvania stockholders of the New Haven road would be as well pleased to have the foreign freight routed from New York by certain western rods as from any new foreign steamship lines landing at Providence and connecting with the Boston & Albany or, horrible to think of, a Canadian railroad. Without railroad connections north and northwest, there will not be so much profit to induce steamships from foreign places to come to Providence; and if they fail to do so the freight bound from this city to the Mediterranean, for example, will continue to pay tribute to the Providence line to take it to South Brooklyn via New York and start it out from there. I have been told that there is one single concern in Providence to whom this freight to South Brooklyn means an item of \$22,000 a year, or enough to pay interest at 5 per cent on the construction cost of one of our new State docks. The railroad to Palmer being such a logical one and so evidently called for for local traffic through a populous neighborhood and to meet New England's needs, it is evident that only artificial restriction to sidetrack natural laws of trade and commerce can have prevented its building long ago. The city of Providence started to finance such an enterprise long ago, but history shows how the proposition was sidetracked, and the "Springfield Railroad," instead of reaching connections for somewhere in the Massachusetts city, found its terminus at Southbridge, Mass. But now, I fancy, if the Southern New England-Grand Trunk is to be bought off from utilizing the very overgenerous privileges that it has secured, somebody else will be glad to take up the job. The city of Providence could finance it without causing any flutter in its tax rate.

Yours, very truly,

HENRY A. BARKER.

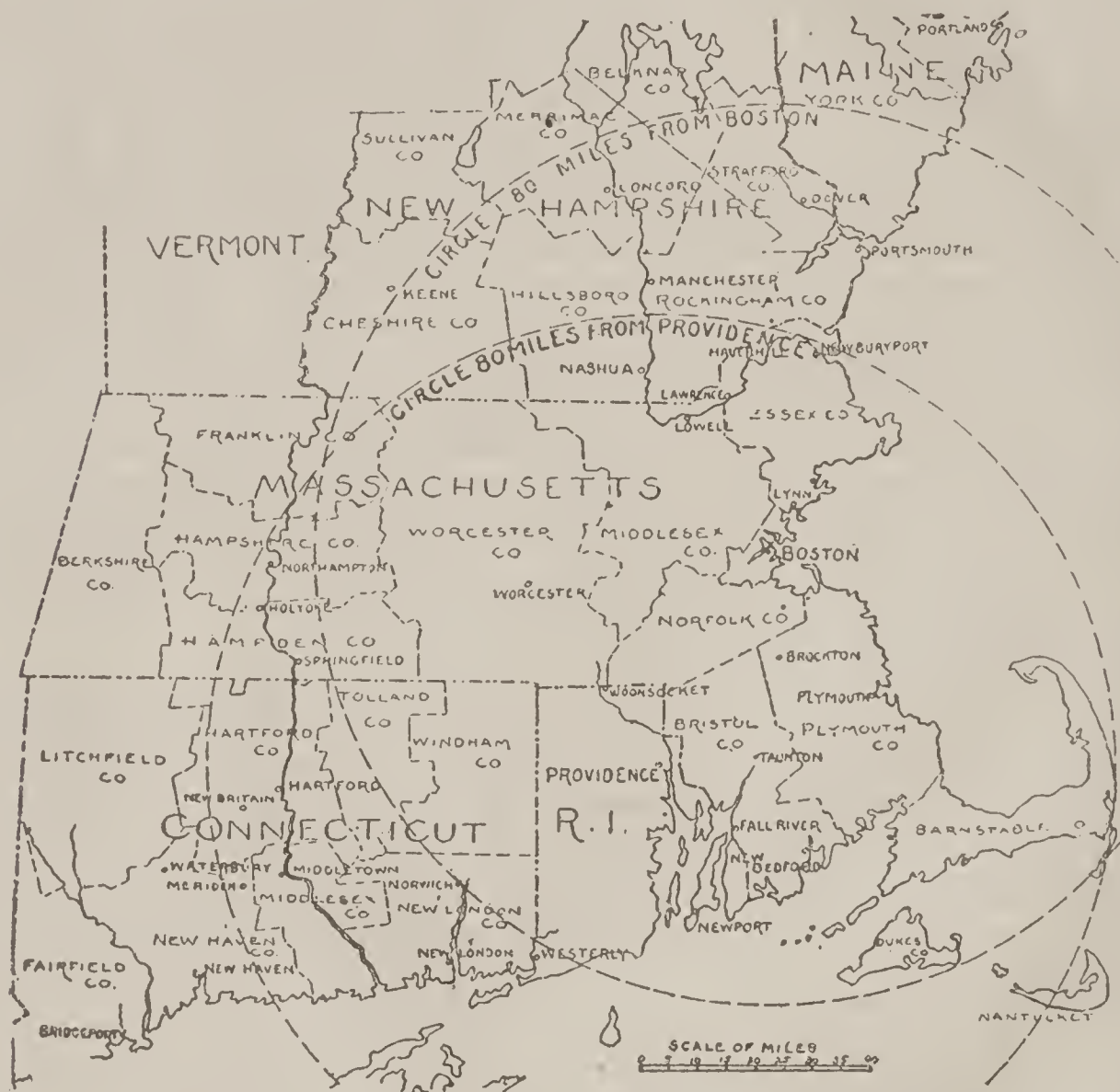
WHY PROVIDENCE SHOULD BE A CENTER OF DISTRIBUTION AND A GREAT RAILROAD AND STEAMSHIP TERMINUS, NEW ENGLAND'S "SOUTHERN GATEWAY."

[From Providence Board of Trade book, 1910.]

SOUTHERN GATEWAY OF NEW ENGLAND.

Few people realize that there are within a day's excursion distance of Providence more people than can be found within an equal radius of any other harbor in the Western Hemisphere, salt or fresh, except those of New York and Philadelphia. Taking a radius of 80 miles as marking a reasonable limit of a single day's round trip,

WITHIN A SINGLE DAY'S EXCURSION.



The population circles of 80 miles radius drawn around Providence and Boston. The head of Narragansett Bay has more dwellers within 80 miles than any other Harbor in the Western Hemisphere, save those of New York and Philadelphia.

we find, by counting up the population of the various towns included in the circle, that there are nearly four and a quarter million people who could come to Providence and get home the same day. We shall also find, probably, that there are more great industries within this circle, needing raw materials to work with and coal to operate them, than can be found in any similar circle on this side of the world, unless it should be one drawn somewhere in New Jersey, with the ports of New York and Philadelphia as their feeders. This, of course, means a great commercial opportunity. The Providence Board of Trade has christened Narragansett Bay "The Southern Gateway of New England," but it didn't make it so. The good Lord attended to that a few million years ago.

THE POPULOUS DISTRICTS OF AMERICA.

Eighty-mile circles drawn around various harbors of America show this result as to population:

Population, 1900.

New York.....	6, 500, 829
Philadelphia.....	4, 252, 534
Providence.....	3, 572, 494
Boston.....	3, 235, 923
Chicago.....	2, 723, 548
Baltimore.....	2, 347, 867
Washington.....	1, 760, 866



THE NEW YORK CIRCLE
OF 80 MILES RADIUS
THE MOST POPULOUS IN THE
WESTERN HEMISPHERE



THE PHILADELPHIA CIRCLE
OF 80 MILES RADIUS
SECOND IN POPULATION IN THE
WESTERN HEMISPHERE



THE CHICAGO CIRCLE



THE BALTIMORE AND
WASHINGTON CIRCLES.

For populations of these circles, see next page.

Figures for 1900 carefully added by counties and towns.

Estimates for 1910 based on completed census returns from Rhode Island and government estimates for 1910 of territory in the other states.

No circle of similar radius that can be drawn in any other portion of the Western Hemisphere contains as much as 2,000,000 people.

Estimated population, 1910.

New York.....	7, 983, 636
Philadelphia.....	5, 108, 858
Providence.....	4, 188, 651
Boston.....	3, 729, 507
Chicago.....	3, 256, 950
Baltimore.....	2, 679, 209
Washington.....	1, 991, 969

No other circle of similar radius can be drawn in any other portion of the Western Hemisphere that contains 2,000,000 people. The New York and Philadelphia circles overlap, as do those of Baltimore and Washington and Providence and Boston. In the case of the latter, however, it is to be observed that the country to the northeast, which is in the Boston circle but not in that of Providence, is much less populous and fast growing than the part of Providence circle that is outside of the Boston one. Even in the State of Massachusetts a considerably larger number of the people are within the Providence circle than are within that of Boston. It was inevitable that sooner or later the laws of trade and distribution would appreciate this fact as well as the relative position of the two cities and that Providence should become recognized as the southern gateway, while Boston will remain the principal eastern gateway of New England.

The 1910 census, taken since I prepared these tables, shows that the estimate of population for the Providence circle was below the actual fact. Except New Jersey, this district shows more rapid growth than any other in the East.

H. A. B.

THE "SOUTHERN GATEWAY OF NEW ENGLAND."

SITUATION AT PROVIDENCE DEMANDS ADEQUATE RAILROAD CONNECTIONS AND JUSTIFIES HARBOR DEVELOPMENT, NOT ONLY ON ACCOUNT OF LOCAL BENEFITS, BUT FOR THE CONVENIENCE OF ALL NEW ENGLAND.

Providence is the nearest seaport to a majority of New England's industries and population.

Providence is the most convenient and only logical southern gateway to nearly all New England, including the Boston district.

Narragansett Bay is one of the greatest natural harbors in the world. Ships of 11,000 tons now come to Providence wharves, and the biggest ships afloat could come under their own power to a point only 7 miles below the center of the city and to the inner harbor by a comparatively small public expenditure.

Rhode Island is the most densely populated State in the Union. Near-by Massachusetts ranks next. Four hundred and eighty-nine thousand people live in the Providence "metropolitan district" (U. S. Census, 1910). About 1,500,000 in 30-mile circle. About 4,330,000 within 80 miles.

Providence should be the distributing point for all goods coming by water from all southern points—from Panama Canal and from South America to all New England. From here the manufactured products of all New England should sail to exchange for the raw materials of South America, Southern States, and West Indies. Except New Bedford and Newport, it is the nearest of all United States seaports to all the great cities on the east coast of South America. It is 125 miles nearer Panama than Boston is, and a shorter land journey to more people. The marine insurance rate is considerably less.

It should therefore be a great railroad and steamship center; but—

It has no modern railroads except to New York and to Boston. It has no direct connections west or north beyond Willimantic and Worcester; it has no railroad at all toward the northwest, except a little wiggly branch line to Southbridge, Mass. It therefore needs rebuilt lines suitable for modern traffic to Hartford and to Worcester; and, especially,

It needs a real railroad to Palmer and to Springfield, Mass., in order that it may have local traffic and through connections without breaking freight or changing cars for northern New England, Canadian, and Western points.

Obviously, the interior districts of New England need this quite as much as Providence does. A "Chinese wall" separates them now.

And yet the harbor activity grows enormously in spite of the absurd restriction that monopoly has provided. Providence commerce is more than \$100,000,000 a year and tonnage more than the whole Mississippi River south of Cairo.

To Panama, Providence is nearer than San Francisco by over 1,330 miles.

To Rio Janeiro, Buenos Aires, etc., Providence is nearer than New York by 81 miles; than Philadelphia by 134; Baltimore by 150; than New Orleans by 560; and Galveston by 800.

[Copy of resolution adopted by the Olneyville Business Men's Association.]

Whereas it is currently reported that an agreement has been entered into between the New York, New Haven & Hartford Railroad Co. and the Southern New England Railway Co., whereby the construction of said Southern New England Co.'s line between Palmer, Mass., and Providence, R. I., has been suspended, and where, by the terms of said alleged agreement, it is understood that the said New York, New Haven & Hartford Railroad Co. will continue to monopolize the transportation business of the State of Rhode Island, to the great detriment of the business interests and of the people of the State: Therefore be it

Resolved, That we, the Olneyville Business Men's Association, hereby express our hearty disapproval and condemnation of said alleged agreement, entered into by said railroad companies as aforesaid, and of the suspension of construction by said New England Railway Co., in violation of its solemn pledge given to the people of Rhode Island, and especially to the Olneyville Business Men's Association by its vice president; and be it further

Resolved, That we heartily commend the action of the governor of the State, the mayor of the city of Providence and the common council thereof, the various civic and business organizations, and the public press throughout the State, to obtain from said Southern New England Railway Co. a satisfactory explanation of its intention regarding the final completion of its right of way into Rhode Island. We further commend the vigorous and timely action by Congressman George F. O'Shaunessy in bringing the matter to the attention of the Federal Government, and we request that such further action, civil or criminal, be taken by the State and Federal authorities as will compel the carrying out of the solemn pact entered into by said Southern New England Railway Co. with the people of Rhode Island.

FRANK L. HANLEY,
C. T. BRIGGS,
BERNARD M. TRUMAN,
Committee on Resolutions.

Mr. O'SHAUNESSY. Mr. Chairman, I am going to present at this time Mr. William C. Bliss, chairman of our public utilities commission, who will enlighten us upon the physical condition of the railroad.

STATEMENT OF MR. WILLIAM C. BLISS, CHAIRMAN PUBLIC UTILITIES COMMISSION OF RHODE ISLAND.

Mr. BLISS. Mr. Chairman and gentlemen of the committee, I do not propose to take up much of your time, because there are so many other gentlemen from Massachusetts and Rhode Island who desire to be heard upon this matter.

Mr. POU. Are you the chairman of the public utilities commission?

Mr. BLISS. I am chairman of the public utilities commission of the State of Rhode Island. I can best illustrate to you the proposed extension of the Central Vermont into Boston and Providence by the folder of the Central Vermont system, and the committee will there see, as the proposed line under construction, the line from Palmer upon the Central Vermont Railroad to Providence, R. I. There is also shown upon this folder the proposed extension from Blackstone upon this line into Boston, and also to Worcester, and then the proposed line from White River Junction upon the Central Vermont down into Boston.

The CHAIRMAN. How many miles would that be in all?

Mr. BLISS. The line from Providence to Palmer is approximately 61 miles in length. I think the chairman of the Massachusetts commission can give you the information with reference to the other line. We are interested in the extension from Palmer to Providence, about 61 miles in length. The Central Vermont Railway, with its controlled

lines, extends from Montreal south through the States of Vermont, New Hampshire, Massachusetts, and Connecticut to tidewater at New London, Conn. The proposed extension from Palmer to Providence is from the town of Palmer upon the Central Vermont line down to the Rhode Island line at a point near Woonsocket and then extending from there to tidewater in the city of Providence. The first application on the part of the Central Vermont or the Grand Trunk, controlling the Central Vermont, for a charter in Rhode Island was made in February of 1910 to the General Assembly of the State of Rhode Island, requesting the incorporation of a railroad known as the Southern New England Railway Co., to build from the State line at a point near Woonsocket to tidewater at Providence, with the right to make connections with the New York, New Haven & Hartford Railroad and to use the Union Depot in Providence. That application presented to the people of the State of Rhode Island an opportunity for a competing line, because the Grand Trunk maintained western connections, and it seemed to offer some relief from a system of monopoly under which we were then living, and the application met with the hearty approbation of all of the municipalities of Rhode Island, all of the business associations, and I venture to say without fear of contradiction that the sentiment of the State of Rhode Island was unanimously in favor of the construction of this road, and it so proved at the hearings that were held before the general assembly, the first hearing being held before the committee on corporations of the house of representatives and being the largest hearing that was ever held before a legislative committee of the State of Rhode Island.

It was held in the house of representatives chamber and there the sentiment seemed to be almost unanimously in favor of the charter, the only objections offered being those on behalf of the New York, New Haven & Hartford Railroad. Many of those objections were proper ones, as to the form of the charter, that it granted greater rights than should be granted to a railroad, and that it did an injustice to existing railroads; but the principal objection that arose was that there was nothing to show this was a real railroad; that there was nothing to show it had the support of the Grand Trunk Railway system; that it was merely an application of so many gentlemen for a charter as a railroad, and there was nothing to show that the Grand Trunk Railway was behind the proposition or would construct the road. The people of Rhode Island and the general assembly received the most positive assurances that it was possible to receive from the gentlemen connected with the Grand Trunk Railway system. Mr. Hays himself, then the president of the Grand Trunk Railway, signed the petition for the charter and was one of those who were named as the original incorporators. At the hearing which was held a cablegram was read from the London board of directors of the Grand Trunk Railway system, in which they had passed a vote upon the very day that the meeting was held; they approved the plan of construction of the Palmer extension.

Proceeding upon these assurances, which were the best assurances that the people of Rhode Island could receive, the charter was granted by the general assembly by a unanimous vote of both branches. The next stage in the proceeding was the application in the State of Massachusetts for a connection from the Rhode Island line to Palmer, and there again opposition presented itself in the form of an applica-

tion on the part of the New York, New Haven & Hartford Railroad for permission to build a line from Palmer to South Bridge, making a complete connection to Providence, and permission was finally granted to the Southern New England Railway, the corporation in Massachusetts, to build from Palmer to the Woonsocket line, thus giving them legislative authority to lay out their whole line from Palmer to Providence. In the general assembly of 1911, the following year, certain amendments were asked to the charter, giving additional rights to make connection at tidewater, over certain streets in the city of Providence, and those again were granted by unanimous vote of the general assembly; and in 1912, the present year, again amendments were sought giving them the right to close certain streets, thus saving considerable expense in the elimination of grade crossings, and again the general assembly unanimously granted these additional rights to the Southern New England Railroad Co.

The construction was commenced, I think, about in May of the present year, and was pushed with the utmost speed. Starts were made at various points over the entire line and the construction was proceeding with the greatest rapidity up to the 8th day of November, when, like a bolt out of a clear sky, the people of the State of Rhode Island were informed that construction work would be abandoned temporarily, and immediately the people sought the reason. The governor of the State communicated with Mr. Chamberlin, the president of the Grand Trunk Railway, at Montreal, inquiring the reason for the abandonment, and asking that he give some assurances to the people of the State of Rhode Island when the work would be continued. The governor also cabled to Mr. Smithers, the chairman of the Grand Trunk board of directors, at London, requesting like information from him. The governor received a reply from Mr. Smithers that he must refer him to Mr. Chamberlin for his information, and Mr. Chamberlin replied to his telegram saying that he would be unable to meet the governor in Providence, as the governor had requested, but that he would be in New York on Thursday and Friday of that week, the 14th and 15th of November, and he would be pleased to meet the governor and to explain to him in detail the conditions. The governor, being unable to see Mr. Chamberlin in New York, commissioned the attorney general of the State of Rhode Island and myself to act as his representatives at this interview.

We met Mr. Chamberlin by appointment upon the 15th of November at his room in the Waldorf-Astoria, and we requested from him the reason for the abandonment or the temporary abandonment of this work; and he told us that the abandonment of the work was due to an order which he had received or a cable which he had received from his board of directors, telling him to check all new construction work as far as possible on account of the financial condition then existing in Europe, due to the Balkan war. We then inquired of him if he could give us any assurance as to when this work would be continued, and he said that he could not. We asked him if, when the financial stringency was relieved, the work upon the Palmer extension would be resumed, and he said that he could not tell about that; it would depend upon his board of directors. We then asked him if, so far as his own knowledge went and so far as he was personally concerned, when this financial stringency was relieved, there would be any discrimination against further construction work upon the

Palmer extension, and he said that as far as his own knowledge went there would not be any discrimination, but it would depend upon his board of directors. His attitude throughout the entire interview was one of evasiveness, and we left without any assurance whatever that the construction work would be continued; and since that time, although every effort has been made by the mayors of the various municipalities and by the governor of the State, we have been unable to secure any positive assurance whatever, either from the board of directors of the Grand Trunk Railway or from the president of the system, as to when construction work will be continued.

Coincident with the notice of abandonment, rumors appeared in the public press that a traffic and trackage agreement had been under consideration between the heads of the Grand Trunk system and the New York & New Haven Railroad, pointing to a traffic and trackage agreement covering practically the entire New England territory, which was at first denied. Of course, the only authority we had were the statements in the press, but finally first one system gave out the information that such an agreement had been under consideration and that conferences had been held which appeared almost in the same newspaper with a positive denial on the part of the other system. Then, finally, both systems admitted they had had a traffic and trackage agreement under consideration, and that they had arrived almost at a point of agreement. Now, that traffic and trackage agreement, while it may be known to the Attorney General's Department, the Department of Justice at Washington, has not been made public, and has not been made known to the people of New England, who are vitally interested in it; and so far we are absolutely without information as to the details of this arrangement. The very fact that the information that such an agreement was under consideration was practically wrung from these two railroads at the very moment that the order of abandonment of work came would seem to indicate that there should be the fullest investigation on account of the interest of the people of New England, who are vitally interested in the proposition. If the abandonment of this road is a secret consideration for a traffic and trackage agreement between these two roads, there has been a violation of the Sherman law, and the parties who are guilty should be punished.

We believe that the public are entitled to the facts upon this matter. We believe that while a Federal grand jury may conduct secret investigations and see to it that crimes are punished, we believe that the public are entitled to the facts in this matter, and we are utterly unable to secure them so far as our State and local governments are concerned, and only the power of the Federal Government or an investigation by a congressional committee can provide the people with these facts so they can act intelligently, and can provide Congress with the facts so that they may legislate wisely if additional legislation is necessary.

In order to show the substantial character of the construction work upon this road I have here photographs showing the entire work from the water front in Providence and extending all the way to the State line at Woonsocket, and by looking over these photographs you will see that the character of the work is substantial; that it was progressing with the utmost activity, and that it was stopped almost in an instant, and, as all of you gentlemen must

know from the character of the construction work you will see being carried on there, the approach of winter is a very small obstacle to the blasting out of rock cuts or the making of fills and the rough construction work of a railroad.

We believe that an investigation of this question will disclose the fact that this is the only portion of construction work upon the Grand Trunk system which was stopped at this time, and that the excuse given was not an honest excuse.

In connection with the construction of this road I wish to bring out just one other matter, and then I will close. In the city of Providence practically all of the water front available for transportation purposes, where railroad facilities are provided, is in the ownership of the New York, New Haven & Hartford Railroad, or its allied companies. When the Southern New England Railway came and proposed this line, the only opportunity that they had to secure a proper tidewater connection and a proper frontage was through the assistance of the State of Rhode Island and the city of Providence. The State of Rhode Island appropriated one-half million dollars for the purpose of purchasing water-front property, to make it possible for competing lines of steamers to come in there and make connections, and to do away with the Chinese wall that existed around our water front. Of what use was it for the Federal Government to expend millions of dollars in improving the channel and aids of navigation to Narraganset Bay and Providence, if only one company had the right to use those avenues of approach? The State of Rhode Island, realizing that, appropriated one-half million dollars for the purchase of shore front property and the construction of a State dock. This dock will be completed in April of the coming year, and the Southern New England Railway had under negotiation and practically at the point of execution a lease of one-half of this State dock. They have under construction two passenger and freight steamers to make the connection with New York, and they were to use this dock.

The city of Providence, with a large portion of city property, appropriated the sum of \$400,000 for the building of a wharf front, a retaining wall, and a lease of half of that property, with an option upon the rest, was at the point of execution by the Southern New England Railway people with the city of Providence enabling them to secure an access to a water front that was equal if not superior to any that then existed in the city of Providence. We have made all these efforts to welcome a real competition into Rhode Island, and we believe that the reason for the sudden stoppage of the work should be gone into and discovered. If no offense has been committed, well and good, but we believe——

Mr. WILSON (interposing). Right at that point, do you think Congress ought to go into that question?

Mr. BLISS. We believe that only through the medium of an investigation of this kind can the facts be presented to the public. If no offense has been committed, well and good.

The CHAIRMAN. But if an offense has been committed, Mr. Bliss, is not the Sherman antitrust law efficient to punish the offense and to remedy the conditions which you gentlemen are complaining against?

Mr. BLISS. As I read the last report of the Attorney General, he seems to doubt the adequacy of the criminal phase of the Sherman antitrust law.

Mr. WILSON. Have you had the case before the Attorney General?

Mr. BLISS. The matter is now under investigation by the Attorney General, and a Federal grand jury is now holding its sessions in New York City.

Mr. LINDBERGH. Is that the extent and the scope of the investigation by the Federal Government?

Mr. BLISS. The Interstate Commerce Commission, as I understand it, is conducting a broad investigation into the service, practices, and rates of the New York, New Haven & Hartford Railroad and the Boston & Maine Railroad. Those hearings have been carried on for some months, mostly in Boston.

Mr. LINDBERGH. Does that investigation involve questions of monopoly as well of rates?

Mr. BLISS. I understand, and of course I can merely understand by information obtained by hearsay and from the press, that investigators and experts of the Interstate Commerce Commission are engaged in going over the books of the New York, New Haven & Hartford Railroad Co. and its allied companies, for the purpose of making a report.

Mr. STANLEY. Is this contention you make here as to the abandonment of this road one of the results of the amendment to the statutes of Massachusetts permitting this consolidation?

Mr. BLISS. I am not familiar with the Massachusetts legislation of recent years with reference to consolidation.

Mr. STANLEY. You remember that the New York, New Haven & Hartford road and the Boston & Maine road went before the Massachusetts Legislature and secured the repeal of certain acts with reference to that consolidation?

Mr. BLISS. I have understood that the New York, New Haven & Hartford Railroad secured the ownership of a controlling interest in the stock of the Boston & Maine Railroad, that being at the time in violation of the laws of the State of Massachusetts; that later, a validation of their action was secured from the General Assembly or the Legislature of Massachusetts, and providing for the Boston Holding Co., so called, and giving them certain rights as to the purchase of this stock.

Mr. STANLEY. Do you trace this trouble to the validation of that act and the establishment of this holding company?

Mr. BLISS. I am not prepared to say as to that.

Mr. LINDBERGH. Are you familiar with the litigation begun by the Government against the New York, New Haven & Hartford road some years ago and afterwards dismissed?

Mr. BLISS. In a general way; yes. I think Mr. White can explain that perhaps more in detail than myself. As I understand it, the litigation was commenced in connection with the absorption of the trolley and steamboat systems, and the principle involved was practically the same as is involved in the case recently decided by the United States Supreme Court.

Mr. GARRETT. Do you know why that case was dismissed, Mr. Bliss?

Mr. BLISS. Simply by hearsay, again, I understand that it was discontinued by direction of the Department of Justice after the finding of the circuit court of appeals in the Southern Pacific case,

which did not sustain the contentions of the Government. That case was reversed by the United States Supreme Court.

Mr. GARRETT. What provision is there in the charter relative to the matter of construction? Does it fix any time in which the road shall be constructed?

Mr. BLISS. The charter provides that the work must be completed by 1915.

Mr. GARRETT. If not, the charter will be forfeited?

Mr. BLISS. If not, the charter will be forfeited. The Southern New England has already paid in land damages for the property taken by it under condemnation approximately \$750,000, leaving a balance of about \$500,000 to pay the rest of their land damages. The only security that the people of the State of Rhode Island have is a bond of \$1,000,000 which was filed in the condemnation proceedings to provide for reimbursement to those whose property was taken by condemnation.

Mr. GARRETT. Is it only in the State of Rhode Island that work has ceased?

Mr. BLISS. Work has ceased over the entire construction from Palmer to Providence. The pictures I have are simply those taken in Providence. In the State of Massachusetts the construction work is just as substantial as it is in Rhode Island.

Mr. WILSON. Work has ceased there also, has it?

Mr. BLISS. It has ceased there also. At Palmer, Mass., the rails which had been brought there and left loaded upon the cars, apparently with the idea of taking them out and unloading them along the right of way, upon the order of abandonment were unloaded in Palmer and piled up there, and steel rails sufficient to build the entire extension are all piled up at Palmer, Mass., together with a large quantity of bridge girders and other bridge material.

Mr. LINDBERGH. Was this work being done under one general contract?

Mr. BLISS. There were two contractors. The portion in Rhode Island was being constructed by the O'Brien Construction Co., of New York, and John Marsh & Co., of Chicago, had the construction work in the State of Massachusetts. There were various subcontractors in connection with the abutment and bridge work.

Mr. LINDBERGH. Have you any information from the contractors as to any arrangement made with them for cessation of work?

Mr. BLISS. So far as our investigation went, they received this summary order to stop the work and they stopped immediately. Four hundred negro laborers were brought from New York to the contractor who was engaged in this work outside of Woonsocket upon Saturday, and he shipped them back upon the following Monday morning, so the order was summary and without any previous notice to the contractors.

Mr. GARRETT. How much power does the public utilities commission, of which you are chairman, have in matters of investigation of this sort, under your State laws?

Mr. BLISS. The question arises as to whether this Southern New England Railroad is a railroad. It is not yet completed, and, whatever our powers might be, the power to investigate outside of the State of Rhode Island is absolutely cut off from us. We can only

secure information from those who come within our jurisdiction, while the Federal Government can reach out anywhere.

Thereupon, at 12 o'clock noon, the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee met, pursuant to the taking of recess, at 2 o'clock p. m., Hon. Robert L. Henry (chairman) presiding.

The CHAIRMAN. The committee will be in order. Mr. O'Shaunessy, who desires to address the committee at this time.

Mr. O'SHAUNESSY. Before proceeding I want to have inserted in the record a letter from Congressman-elect Gerry, dated December 9, 1912, addressed to the chairman of this committee.

The letter offered by Mr. O'Shaunessy is as follows:

DECEMBER 9, 1912.

HON. ROBERT L. HENRY, M. C.,

Chairman House Committee on Rules, House of Representatives, Washington, D. C.

DEAR SIR: As the Representative-elect of the second congressional district of Rhode Island, I am writing to urge the appointment of a committee to investigate the rumored arrangement said to exist between the New York, New Haven & Hartford Railroad Co. and the Grand Trunk. This is a matter of vital importance to my State.

Very respectfully, yours,

PETER G. GERRY.

Mr. O'SHAUNESSY. I want to present to the committee Mayor Henry W. Fletcher, of Providence.

STATEMENT OF HON. HENRY W. FLETCHER, MAYOR OF PROVIDENCE, R. I.

Mr. FLETCHER. Mr. Chairman and gentlemen of the committee, as the representative of the city of Providence on this occasion, I have prepared a statement which covers the situation so far as the city of Providence is concerned. I am anxious that the committee should know exactly the situation as it exists. I have therefore prepared this statement so that what is said here can not be misunderstood.

Providence is a manufacturing center and one of the most important in the country. We do not consume the goods we manufacture beyond a very small percentage of our output but ship them to all parts of the United States and, indeed, to the entire world. We do not produce the raw material used in the manufacture of our products. It is because of these conditions that our success and development depend to a very large extent upon our railroads and upon the transportation facilities afforded us by water and by rail.

To-day we have one railroad corporation in our State that controls all of our railway transportation lines, including our suburban routes, and practically controls transportation to and from this port by water. For many years our merchants and manufacturers have felt the pressing need of additional transportation and commercial facilities, and when the Grand Trunk Railway interests announced their desire to enter the city of Providence and to establish there a tidewater terminal, the news was received with the greatest satisfaction, and everything that could be done to encourage the new enterprise was at once made the object of our activities.

On January 4, 1910, the city council of Providence created a joint special committee to confer with Grand Trunk officials relative to the entry of that road into the State and city to tidewater. At that conference Vice President E. H. Fitzhugh, of the Grand Trunk, stated that if the people of Rhode Island wanted the Grand Trunk interests to build a railroad in this State the road would cooperate with us to that end, and he expressly asserted, and with emphasis, that if a charter for the Grand Trunk's branch line in this territory, which was to be known as the Southern New England, was obtained no traffic arrangements that any other railroad could offer

would prevent the Grand Trunk management from building the proposed road in this State and carrying out the Canadian road's agreements with the State of Rhode Island and the city of Providence. The record of the Grand Trunk was declared to be that its word had never been broken, and that the road always carried out its agreements to the letter.

On the strength of the statements made by Mr. Fitzhugh in this interview, the city council committee recommended to the council the passage of a resolution, which was adopted, authorizing the joint special committee to appear before the legislature and at any public hearings that might be conducted and advocate the granting of a charter for the building of the Southern New England.

At the first public hearing given by a committee created by the State legislature the attendance of our merchants and manufacturers was large, and members of our city government, including the mayor and the city solicitor, recommended most heartily the granting of the petition of the Grand Trunk interests for a charter for the Southern New England. The only opposition to the charter at that hearing came from attorneys representing the New York, New Haven & Hartford Railroad Co.

The legislature granted the prayer of the Grand Trunk interests for a charter for the Southern New England in Rhode Island. At the next session of the legislature, in 1911, certain amendments to the Southern New England's charter were asked for. One in particular was requested by the city of Providence, to the effect that the Southern New England be permitted to use the tracks of the Harbor Junction branch, so called, of the New Haven road to tidewater.

This was opposed by the New Haven road's representatives, who prevailed upon the legislative committee having the amendments under consideration to reject this proposition. The result is that we have parallel railway lines running through a residential section of the city that adjoins one of the most beautiful parks in the country, and that part of our city has been disfigured beyond description and entirely without need, as the Harbor Junction branch is not overloaded, only 7 trains in 24 hours passing over its tracks.

Our people have submitted to have their city disfigured without complaint, realizing that it meant transportation facilities which had been so long needed and hoped for; but when work on the Southern New England was halted in the early part of November, without any satisfactory explanation, our people became indignant, and this attitude became greatly enhanced when it was freely reported that negotiations were pending between the Grand Trunk and New Haven interests, and that new traffic agreements between these two roads were to be the price of an entire abandonment of the work of building the Southern New England.

On November 13, 1912, a conference was held between representatives of various State and city interests and officials of the Southern New England, and President E. H. Fitzhugh, of the latter road, was asked for an explanation as to the cessation of the work on that line. The only statement which Mr. Fitzhugh would make was that the work had been ordered halted by the management of the Grand Trunk Railway System, a statement which was inadequate and wholly unsatisfactory.

I therefore communicated with President E. J. Chamberlin, of the Grand Trunk system, calling his attention to the condition in which our highways had been left as a result of the Grand Trunk's building operations in this city, which had been ordered halted, and asked him to advise me when operations at building the road would be resumed. His answer was an evasive one and dodged the main issue. Again I telegraphed him that we must have a definite answer to the question if work on the Southern New England would be resumed in Rhode Island in the spring of 1913. His reply was as follows:

"As already advised, the Southern New England was closed for the winter as a precautionary measure. Owing to the hostility of the New England people and press, it would be impossible for me to state what effect it may have on the action of our board of directors."

This is a most extraordinary statement, as the hostility of the New England people and press is not against the building of the railroad but against the entering into negotiations and agreements that would involve the abandonment of the Palmer to Providence branch, in direct violation of the Grand Trunk's pledges to and agreements with the State of Rhode Island and the city of Providence.

In addition to this statement, I wish to present for your consideration copies in full of the communications I have had with the president of the Grand Trunk system.

The communications referred to are as follows:

SOUTHERN NEW ENGLAND RAILWAY CO.,
Providence, R. I., June 7, 1912.

HON. HENRY FLETCHER, *Mayor, City.*

DEAR SIR: In connection with the construction work of the Southern New England Railway Co. there is a certain work, such as the handling of water mains, sewers, repaving streets, which it is expedient for the city to do. The Southern New England Railway Co. will pay the city for doing this work on bills to be rendered from time to time as the work is performed.

Very truly, yours,

JOHN S. MURDOCK.

The above is a true copy of the original letter received from John S. Murdock by Mayor Fletcher.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., *December 7, 1912.*

CITY OF PROVIDENCE, EXECUTIVE DEPARTMENT,
City Hall, November 18, 1912.

MR. E. J. CHAMBERLIN,
President of the Grand Trunk Railroad, Montreal, Canada.

DEAR SIR: It is my duty officially to inform you that the cessation of work on the Southern New England branch of the Grand Trunk has left this city, in company with other parts of the State, in a torn-up condition that is utterly unwarranted and is a disgrace to the name of any corporation responsible therefor. Certain of our highways have been rendered unsafe for travel and many of our sewer and water mains, together with the equipment of other public utilities, have been seriously disarranged.

These conditions, which in certain localities not only set at naught the convenience and comfort of our citizens but even imperil their lives, can not be permitted to continue.

It is necessary therefore that you furnish definite and positive information as to whether your company intends to proceed with the completion of the work of constructing the Southern New England, or whether you and your associates propose to abandon the project.

The city of Providence has been called upon to incur heavy expense as a result of agreements made with your representatives and based upon the strongest assurances that the road would be built, and in the event of an abandonment of the work it will be necessary to take legal steps to protect the interests of the city and its citizens.

Our people are not only grievously disappointed at the turn the enterprise has lately taken, but they are fired by a just indignation that promises and pledges so widely and so openly made should be in danger of being broken, and they are in no mood to be trifled with in this matter. They are by no means satisfied with statements bearing on the situation which purport to have come from you, and they are demanding that all doubt in the premises be cleared away and that the agreements and pledges of the promoters of the undertaking be fulfilled to the letter. Public mass meetings are being conducted and civic and business bodies are joining their emphatic protests with those of the entire citizenship against an abandonment or even any prolonged postponement of the work.

I can not make too emphatic my request that with all possible dispatch you inform me, as mayor of the city which stands to sustain the greatest damage and to suffer the heaviest loss from a cessation of this work, as to the purpose of your company relative to the completion of the Southern New England branch of the Grand Trunk road in Rhode Island.

Very truly, yours,

HENRY FLETCHER, *Mayor.*

The above is a true copy of the original letter sent to E. J. Chamberlin by Mayor Fletcher under date of November 18, 1912.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., *December 7, 1912.*

GRAND TRUNK RAILWAY SYSTEM,
Montreal, Quebec, November 20, 1912.

Mr. HENRY FLETCHER,
Mayor Providence, R. I.

DEAR SIR: I have your favor of the 18th; contents noted.

Work on the Southern New England Railway was closed for the winter. At the time this matter was discussed with Mr. Fitzhugh and Mr. Jones the latter stated there were some highways that were in bad shape from the fact that work had not been fully completed, which would inconvenience the public, and he was instructed by Mr. Fitzhugh to continue such work, placing the streets in proper condition, and I have no doubt this is being attended to.

Yours, truly,

E. J. CHAMBERLIN, *President.*

The above is a true copy of the original letter received from E. J. Chamberlin by Mayor Fletcher.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., December 7, 1912.

PROVIDENCE, R. I., November 21, 1912.

E. J. CHAMBERLIN,
President Grand Trunk Railway System, Montreal, Canada:

Your letter, evading main issue, says construction railroad closed for winter. Must have definite answer to question whether work on Southern New England will be resumed in Rhode Island in spring of 1913.

HENRY FLETCHER, *Mayor.*

The above is a true copy of the original telegram sent to E. J. Chamberlin by Mayor Fletcher under date of November 21, 1912.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., December 7, 1912.

[Telegram.]

OTTAWA, ONTARIO, November 22, 1912.

HENRY FLETCHER,
Mayor Providence, R. I.:

As already advised, Southern New England was closed for the winter as a precautionary measure. Owing to the hostile attitude of the New England people and press, it would be impossible for me to state what effect it may have on the action of our board of directors.

E. J. CHAMBERLIN.

NOVEMBER 23, 1912—11.45 A. M.

The above is a true copy of the original telegram received from E. J. Chamberlin by Mayor Fletcher.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., December 7, 1912.

Mr. FLETCHER. There may be some other matters which Congressman O'Shaunessy is interested in, and I understand that he wishes to ask certain questions at this time relative to the general subject under discussion.

Mr. O'SHAUNESSY. I want to ask you about the alleged imposition of a head tax of 25 cents upon people coming into Providence by the Fabre Line of steamships.

Mr. FLETCHER. That is a very important point and has considerable bearing upon the general question. Two years ago the Fabre Line signified its intention of making Providence a port of entry. Several of our officials looked over the ground in order to find out if it was possible for the Fabre Line to get accommodations there. The New Haven system, which controls the greater portion of the avail-

able property for such purposes, had a pier that it said might be used temporarily for the landing of passengers. I will state further, and I want it to be distinctly understood, that this tax of 25 cents per capita or head is in lieu of rent. The Fabre Line is not permitted to discharge freight, but their freight is carried back to New York and then reshipped to Providence. This is only a temporary affair, however, as the Federal Government, some few years ago, made an appropriation of \$459,000 for dredging and widening the Providence Harbor, providing, however, as I recollect the act, that the city and State should spend an equal amount in improving the Providence River and Harbor. As a result of that condition that was placed upon us, the State appropriated \$500,000 to build a pier, which we are now constructing, and that pier will be ready some time before the 1st of July. In addition to that the city of Providence has appropriated \$750,000 to build a dock. In addition to that, at the last election the people voted a new harbor loan of \$1,000,000.

Now, all of these things enter into this general question of railroad facilities. In view of the money spent by the Government, the State and city, aggregating, as it does, millions of dollars, we need all the railroad facilities that it is possible to get, and it would be vitally against the interests of this great community, which stands so high in this country, if we are to remain as we have remained all these years, at the mercy of one corporation. That corporation may be fair. I am not here to say that it may not be, but it would be unfortunate to be placed practically at the mercy of one corporation and bottled up under the control of one large concern. It seems to me that it is of the utmost importance, if it is possible to break off these negotiations and agreements that are apparently being contemplated so that this manufacturing community may have the benefit of railroad facilities which will enable them to ship and to receive goods at a minimum cost, that it should be done.

Mr. O'SHAUNESSY. Is it your opinion that these appropriations which have been made by the Federal Government, the State, and the city, in the final analysis, are made for the benefit of one corporation?

Mr. FLETCHER. That is what it means.

Mr. O'SHAUNESSY. I will now ask Mr. Albert A. Baker, the city solicitor of Providence, to address the committee.

STATEMENT OF HON. ALBERT A. BAKER, CITY SOLICITOR OF PROVIDENCE, R. I.

Mr. BAKER. Mr. Chairman and gentlemen of the committee, I am not here to make any general denunciation of the New Haven Railroad system, nor to criticize its financial management. Under the present management of that system, many great improvements have been made and many more are now impending, involving enormous amounts of money. The last proposed improvement which has been definitely determined is the electrification of the railroad from Providence to Boston. As representing the city of Providence, we are here with reference to a single matter, but with the broadest possible consequences involved, namely, this astonishing cessation of work upon the Southern New England Railroad. In order to economize your time, and for that purpose only, I have reduced to writing the com-

paratively few facts involved here and some deductions based upon the facts, for your consideration:

The salient facts relative to the Grand Trunk's entry into Rhode Island are few and mostly contained in public records and are undeniable. Its officers and representatives applied for the admission of a subsidiary company to be chartered by the State and to be organized and financed by the Grand Trunk through the medium of its subsidiary, the Central Vermont Co., or in some other way.

Representatives of the New Haven Co. at the outset claimed to representatives of the State and the city of Providence that the proposition was not made in good faith, but as a means to the end of securing a traffic entrance into the city of New York. When this claim was brought to the attention of the Grand Trunk representatives, Mr. Fitzhugh in the beginning and later other officers and representatives of the Grand Trunk system, including President Hays, said it was false. From time to time the most positive assurances were given that if admitted to the State and city the railroad from Palmer to Providence would be built. Everyone was defied to show that the Grand Trunk had ever broken its promise or faith when definitely and publicly given. The alleged calumny upon its good faith was refuted so vehemently, repeatedly, and publicly that the Grand Trunk Co., in effect, proclaimed to the world that its honor and financial standing in respect to its intention and ability to build the railroad were attacked, and pledged its faith to build the road. These statements were convincing, as apparently made by honest men who knew they had authority to represent the Grand Trunk system, and who intended to carry out fully its engagements.

The charter for the Southern New England Co. was obtained, it was financed through the instrumentality of the Grand Trunk. Contracts for building the road were let and also for building two passenger steamers to ply between Providence and New York. The city granted trackage rights in Allens Avenue, along the harbor, and all the details of a long term lease from the city to the company of 900 feet of the city dock now under construction and adjoining lands, comprising more than 500,000 square feet, to be used as a coal and heavy freight terminal, were arranged. The lease was drafted and its execution authorized by the city council.

The company has spent for organization expenses, land damages, and road construction in Rhode Island and Massachusetts about one and one-half million dollars. If the work is abandoned, it is estimated that an additional million and a half dollars will be required to pay further damages and expenses. The cuts and fills of the road-bed through Rhode Island are largely completed. Large expensive bridges have been fully or in part built, and other smaller ones completed.

Judging only in the light of visible facts showing the extent and state of the construction of this road, and the unavoidable further liabilities connected therewith, and assuming that its Grand Trunk sponsor is not without financial resources, to permanently stop the work at this stage would be so inconsistent with any business principles and so grossly unreasonable and profligate as to brand those responsible as incompetents and fit subjects to be set up in effigy on a monument to folly.

Therefore, reasonably, it is openly claimed that special inducements have been offered the Grand Trunk to abandon this road and the present president of the Grand Trunk had publicly admitted that other considerations have intervened in the form of some kind of a traffic alliance to be made with the New Haven Co. which to the Grand Trunk may justify its abandoning this undertaking.

But there can be no justification in this case. At the inception the reasons and considerations which led to admitting the Grand Trunk system to the State and city were made plain, and the State and city have performed and are ready to perform all their parts of the agreement and the Grand Trunk and its subsidiary company are in duty bound to perform the agreement on their part. If they don't they will inflict a grievous injury upon this State and many of its citizens without compensation of any kind. There are some contracts of such a nature, especially when executed in part, that in equity and good conscience specific performance is the only adequate remedy. After embanking lands, digging ditches, and making a railroad bed through a State, with all the resulting public disturbance and incidental damages to adjoining and neighboring property owners, the operation of the railroad is the only justification and consideration to the public.

Under the circumstances of this case, if the Grand Trunk's pledges are broken, it will be a lasting exhibit of unparalleled corporate perfidy shocking to all honest men. Such a notorious default ought to be and will prove to be a great injury to the Grand Trunk system. The stockholders could not approve a management responsible for covering its name with odium.

Further, if the Grand Trunk should be influenced to abandon this undertaking by any rewards or indemnities, emanating from the New Haven Co., such a flouting of

the public will lead to the indictment of both companies before the all-powerful bar of public opinion and punishment of some kind will surely follow.

The railroad servant is not greater than the public master. Every public-service corporation, to which a part of the public power has been delegated, is a trustee for the public. Its stockholders are entitled to reasonable and liberal financial returns for undertaking and performing the public service intrusted to it. But such a corporation is not entitled to usurp any power not intrusted to it by the State, and has no right to prevent the public from employing another railroad servant or to induce such other servant to abandon its duty. Some axioms bear repetition and need to be repeated.

Whatever the arguments in favor of the consolidation and unity of railroad management and service, and whatever the developments and great improvement of railroad service as a whole during the last two decades, monopoly in all ages has been odious. Generally its practices have been tyrannous and its services inadequate. Its inherent defects are ever impelling it to disintegration. Even natural monopolies will not be long tolerated by the public, unless more equitably conducted. The public standard has advanced and the present age demands that the public trustee shall do equity and not abuse its power, and a mere avoidance of the policeman is not considered sufficient. Whatever excuses may be made for them, it is evident that it is very difficult for railroad managers exercising great powers to realize that they are servants not only of their stockholders but also of the State.

If in this case the claim is true, that these great corporations and their managers so far have forgotten their duties as to conspire against the public rights for their own pocket advantages, with the intention to defeat the policy and will of sovereign States, definitely expressed by their legislatures, it is a challenge to the public power which can only be accepted. If not, public authority and law will be held in poor esteem by the multitude.

The real issue in this case is, Shall the will of two great corporations prevail and dominate over the will of the people of two or more of our States? If the alleged conspiracy has been entered into, the Sherman antitrust law may afford a remedy. Whether that is so or not, the subject matter here is worthy of the attention of the Congress. If such a conspiracy has been merely hatched, it is an ominous portent fraught with peril. It is a blow to the stability of all railroad corporations in the United States. It advocates State ownership of railroads with all the natural consequences and disadvantages. It indicates that it may be necessary to subject railroad corporations to having public representatives on their boards of directors, and to subject their operations to a wider publicity and to a greater public control than at present.

The appropriate remedy can only be determined after a thorough investigation. It raises a question of public policy that can not be determined by court proceedings. If the managers of two such great railroad systems can not be trusted, if contemptuous of public authority they can not see further than the possible loss or gain of some dollars, if they can not rise above a narrow policy and execute their great trusts with justice and equity to the public, then their managements necessarily fail and some remedy or check must be found. Congress seems to us the appropriate body to act, as such symptoms indicate a disease not confined to a single State, and which to combat requires the broad authority of Congress. Let us hope that a full and untrammelled investigation by a committee of Congress will be made, and that its results will reassure the public mind. If it should be disclosed that the public judgment has been to any extent premature, so much the better. Such an investigation can not fail to make these corporations and their managers see their duties to the State more plainly, and may lead to a satisfactory adjustment or to a readjustment of the relations of these and perhaps other railroad corporations with the State and the United States.

Mr. HARDWICK. Will the gentleman permit me to ask him two or three questions at this time?

Mr. BAKER. Certainly.

Mr. HARDWICK. I understood you to say during the reading of that paper that a court proceeding would be entirely inadequate in this case, and that, therefore, a congressional investigation was necessary?

Mr. BAKER. Yes, sir.

Mr. HARDWICK. Now, is it contended, or is it your idea—I am simply trying to get information now—that the State and Federal statutes are inadequate to meet this situation?

Mr. BAKER. I do not know whether you refer to a criminal remedy or a civil remedy.

Mr. HARDWICK. Well, either, or both.

Mr. BAKER. I have no confidence in a criminal remedy.

Mr. HARDWICK. Well, what about the civil remedy?

Mr. BAKER. Without going into the reasons for my opinion, which will not interest you, perhaps, in this particular case, from my knowledge of this matter and from the information I have of the way in which these gentlemen approached the city of Providence, I do not believe that remedy would be adequate. Now, as I have said, when these gentlemen approached the city of Providence, and in the course of this thing from the beginning, I do not think that the railroad managers reduced anything to writing, and I do not think that they do so in relation to matters of this kind at any stage. As to the civil remedy, that is an uncertain situation. There can be to a certain extent a civil remedy, but it is to a very limited extent. Now, of course, where there is a definite public interest, such as a highway crossing, where there are two easements which are subordinate to each other, in such cases, a court of equity would have authority to require the putting of the highways back at least into the condition they were in at first. That is my opinion, but as to the completion of this railroad, I do not see how there can be any remedy afforded.

Mr. HARDWICK. The idea I had in mind was this: I know from what you say that you apprehend that the power of Congress to order investigations of this sort is based exclusively on the proposition that an investigation is necessary in order to determine what course Congress shall take in reference to the enactment of new statutes on the subject.

Mr. BAKER. Yes, sir.

Mr. HARDWICK. And that is the reason I was interested in your paper: and that proposition, of course, is fundamentally sound. Now, applying that principle to this case, is it your judgment—I have not been able to hear all the gentlemen who have made statements before the committee—that the conditions there are of such a nature that an examination into them will disclose to us reasons for passing some new law to meet these conditions, and to give a more complete and adequate remedy than is now afforded under the existing statutes?

Mr. BAKER. I can only say this: This is the most astonishing course of procedure on the part of the management of two corporations of that size that did not actually involve the cheating of the Government or the cheating of somebody out of money that I have ever heard of. You gentlemen can not appreciate what a shock and blow these developments have been to our citizens generally, irrespective of party. There is no politics in this matter. We are Republicans, or the most of us are.

Mr. HARDWICK. Let me state it in another way: If the existing law is perfectly adequate to deal with this situation, and if the executive branches of the Government charged with the vindication of the law by prosecutions are proceeding with reasonable promptness and diligence to perform their functions, and there is no necessity for Congress to pass any other laws to meet the situation, then what necessity can there be for an investigation by Congress?

Mr. BAKER. I have tried to point it out. We have brought this matter direct to your body because of the faith we have in the remedy of publicity, because, after all, public opinion is generally the only law that prevails for any length of time in this country. Now, my thought is this: If you can not trust the managers of these two great roads—and the management of the New Haven road has been in many respects admirable in its past history—why, it looks as though there was a need of impressing upon the railroad managements a sense of their duty to the public in some more definite form than we have to-day. The regulation of rates is only one matter, gentlemen, as shown in this case. As I said in the beginning, we are not here advocating the taking away from any department of the Government any of its functions or interfering with any investigation now properly in progress. We, representing the city of Providence officially, are only here because of this most astonishing situation in which we find ourselves and our community. Now, there are very few facts involved here, and an investigation along the line of these facts would all lead to one issue. I am speaking here only as I am authorized to represent the city of Providence.

Mr. POU. You think this is an exceptional case in this respect, that the Grand Trunk system agreed to build this extension and got certain concessions from the city of Providence upon the faith of that agreement, and that they have now abandoned the building of the extension?

Mr. BAKER. Not only that, but as shown from the statement of the mayor, the city and State have gone ahead and expended enormous sums of money for our community, for the improvement of the dockage and wharfage facilities, upon the faith of this agreement. The situation is rather stronger than you have stated it.

Mr. POU. You want them to build the Palmer extension or give a good reason why they do not build it?

Mr. BAKER. If they do not build it, and if that is not a satisfactory answer, gentlemen; if something is not done in regard to it, what is going to be the result? Perfidy on the part of railroad corporations in the United States will be indorsed in effect by nonaction.

Mr. HARDWICK. Unless you have some specific complaint against the existing law or against the enforcement of the existing law by the present administration, why is there any necessity for a congressional investigation? In other words, unless you can show that the existing law is inadequate in some respects, or that the administration of the existing law is imperfect in some respects, why should there be any congressional investigation of this matter?

Mr. BAKER. Do you think, sir, that if the public had a representative on the board of directors of the New Haven system this could occur? Of course, the remedy is for you to find out. I have troubles of my own. You are representing the public in the solution of these great problems involved in the proper control and management of the railroad systems of this country and in carrying on these systems under their present methods of financing. Now, unless something is done to improve these methods, gentlemen, they are going to break down; they are going to break down in this country, and we will be obliged to adopt drastic laws which will be a great injury, not only to the railroads and their stockholders, but they will possibly result in great trouble for the Nation.

The CHAIRMAN. Have you examined the resolution under which the Committee on Banking and Currency are investigating the Money Trust, and do you think that this proposition that you have now before the Committee on Rules might be investigated under that resolution?

Mr. BAKER. I have not examined the resolution.

The CHAIRMAN. It strikes me, without meaning to express an opinion about it, that it would be worth looking into, and there might be something done in that direction.

Mr. BAKER. The notice of this hearing was given us only on Friday, I think. That was my earliest information of the matter, and I have not looked into that resolution. My single point is this, gentlemen, that there is something here different from anything I have ever heard of in the United States of America in reference to railroads. It involves the question of whether railroads can be trusted fundamentally. Here is the Grand Trunk management, representing hundreds of millions of dollars, and the New Haven system, representing the same. Now, if they can not be trusted fundamentally, there ought to be some remedy provided, not only in favor of the public, but in favor of the railroads themselves and their stockholders. Gentlemen, you know what has been the course of railroad history in this country during the past 10 years much better than I do. This, gentlemen, is a moral protest as much as anything else. I have made one suggestion only as to what might be possible or might be wise to enact into law. Why can not the public have some right to know what is going on underneath in the financial councils of these great corporations which represent almost States within States?

Mr. LENROOT. With reference to the violation to the Sherman law, speaking of the civil side, the only remedy there rests in the broad powers of a court of equity and in a wide discretion on the part of the administrative department of the Government, and I think your suggestion is that this investigation might disclose a condition of affairs that would call for a statutory remedy.

Mr. BAKER. That is my whole point.

The CHAIRMAN. Then, I assume, that the Department of Justice in investigating this matter is governed, of course, by laws already in existence, while a congressional investigation might go much further than that, looking to the necessity for additional legislation.

Mr. BAKER. Mr. Chairman, I presume you are a lawyer.

The CHAIRMAN. Yes.

Mr. BAKER. I have been responsible for a criminal docket for over 20 years, although I have not been in the criminal court for probably 15 years, and all my experience and knowledge of these matters go to one point, and that is, that under the technical rules of law in relation to the trial of criminal cases, you do not many times, nor, perhaps, even in a majority of cases in this country, arrive at all the degrees of responsibility, and the facts involved in criminal offenses are almost impossible to get at. Now, in an untrammelled investigation by Congress, with nobody under indictment, with its broader power and independence of technical rules of evidence, the committee would perhaps confer with railroad men. Now, railroad men know the deficiencies of their system. Many times they know better than they do, but if they are allowed to do certain things, they will do them. One of the chief troubles in this country to-day is due to the fact

that some man not in touch with public opinion, and who does not care anything about it, dictates the action of the men in front who have to bear the brunt of the fight. These men remain in the background and care nothing for public opinion. That was the trouble in this case, and if you will investigate it, you will find it out, in my opinion.

No court in the land would ever find it out. They can not do it under the rules of criminal evidence nor under the rules of civil evidence, but I believe that an investigation made by Congress will bring out these facts, and that the committee making the investigation will report that to be the fact in their opinion. I think such a committee would report that in their opinion the facts are as I have stated them to be.

Mr. O'SHAUNESSY. I now present Mr. Frederick L. Pierce, of the city council of Providence.

STATEMENT OF HON. FREDERICK L. PIERCE, CHAIRMAN OF THE COMMITTEE ON THE SOUTHERN NEW ENGLAND RAILROAD OF THE CITY COUNCIL OF PROVIDENCE, R. I.

Mr. PIERCE. Mr. Chairman and gentlemen of the committee, with your permission I will read my statement.

As chairman of the committee on the Southern New England Railroad of the city council of Providence, I am directed to appear before you to urge you to recommend the passage of House resolution No. 718, which provides for an investigation of the causes for stopping work on the Southern New England Railroad.

The committee which I represent feel that certain facts and records should be placed before you, showing that representatives of the Southern New England Railroad appeared before the committee of the Providence city council and asked for the privilege of coming into our city, asked for the aid and cooperation of our citizens, and promised to build and maintain a railroad without the aid or interference of any competing railroad or corporation. Now, what has happened? Work is suddenly stopped, the citizens are up in arms, disgusted, our streets left in a deplorable condition, and the people want to know the reason why. They are told that the representatives of the New Haven Railroad have been in collusion with the representatives of the Grand Trunk and Southern New England Railroad Co. to stifle this project, which means so much to all in our section, namely, competition, cheaper freight rates, and better service.

We ask for this investigation to show our people the real cause for the cessation of work, to show up the men who are to blame for leaving our city with a wide deep gully from the north to the south, to show why our streets should be left in the torn-up and blockaded condition, property values lessened, and an enormous bill for cooperative work for which the city will be obliged to pay.

Now, I wish to present to you records of our meeting, together with resolutions and records of the Providence city council, also certain records of hearings before the committee on corporations of the State of Rhode Island before which representatives of the Providence city council appeared and urged the passage of the act allowing the Southern New England Railway to do business in Rhode Island. From these records I should like to read a few passages, which will take but a few minutes of your time.

Mr. Baker, the city solicitor, asked:

If this charter is granted, is there any question as to whether the road will be built and prompt steps taken to that end.

Mr. FITZHUGH. I should say yes.

Mayor FLETCHER. It has been intimated that possibly if you made other arrangements elsewhere, you might drop this end of it?

Mr. MURDOCK. I understand that has been intimated; probably you expected it would be, but that ought to put it to rest.

Mayor FLETCHER. I understand from Mr. Fitzhugh that this committee is given to understand that there is absolutely no foundation for such rumors?

Mr. FITZHUGH. Not the slightest.

Mr. MURDOCK. I will say that Mr. Fitzhugh told me that there is one thing which might keep him from coming here; if they would turn over to him the New York Central Railroad then they might consider this project; there is no other reason that I know of why he would consider going elsewhere. Are there any other reasons, Mr. Fitzhugh?

Mr. FITZHUGH. No. It seems a little strange to me that our good faith should be questioned or mentioned, and particularly by the assertions made by the people interested in keeping us out. We are giving every evidence of good faith that we can. Of course my remarks are to emphasize that we are acting in good faith.

Mr. MURDOCK. Mr. Hays is willing to have inserted in this charter that the New Haven road can not buy this or own it directly or indirectly. I would like to ask if there is any lingering doubt in the mind of any member of this committee as to the good faith and good intention of the promoters of this railroad?

Mr. FITZHUGH. If there is any other assurance wanted, we would like to give it.

Mr. BAKER. I don't see that Mr. Fitzhugh can say anything stronger than he has. He denies that there is any collateral matter at all involved in this. So far as he can state, from the knowledge of the intentions of the management of this railroad, they propose to come in here and stay here, if they can get in here; that the road was big enough not to sell out, but to expand further.

Mr. MURDOCK. That states your position, Mr. Fitzhugh.

Mr. FITZHUGH. States it exactly.

Mayor FLETCHER. We want to know if Mr. Fitzhugh has carte blanche, to say to the people of Providence what his road will do, from the directors.

Mr. FITZHUGH. The men who control are deputies. The men who control the destinies of this enterprise have already given themselves to it.

Mr. BAKER. Did your board of directors pass a vote in favor of this move?

Mr. FITZHUGH. This will be promoted by a Vermont corporation acting for its directors. They will act and have authorized already the steps I am taking.

Gentlemen, we want you to recommend the appointment of this committee. We want a special committee; we want this committee to visit the city of Providence and look over the place, and if we have not told you the truth about the situation, you will find it out. I am pleased to submit to you this record of our meeting.

Mr. POU. You were reading from the minutes of what meeting?

Mr. PIERCE. From the minutes of a meeting at which Mr. Fitzhugh and Mr. Murdock were present.

Mr. POU. When was that meeting held?

Mr. PIERCE. On February 3, 1910.

Mr. POU. It seems that you had some suspicion at that time that there might be something behind this that was not disclosed, and that this extension might not be built?

Mr. PIERCE. We felt that the New Haven road had such a strong hold in New England that there was some doubt in our mind as to whether they would not interfere and that eventually these people would sell out to the New Haven Railroad, as we believe at the present time they have done.

Mr. GARRETT. Do you understand that this Grand Trunk Railroad represents foreign capital altogether?

Mr. PIERCE. We believe that the capital in that road comes from either Canada or England, and that the capital for the Southern New England Railroad was Canadian or English.

Mr. GARRETT. Do you think that the capital to build this new road came from Canada or England, or do you know anything about that?

Mr. PIERCE. I do not know anything about that, but that is common talk. I am not making that statement on authority.

Mr. GARRETT. The board of directors of that road, as I understand it, are in London.

Mr. PIERCE. The general board of directors are in London. There is a board of directors, I understand, for the Grand Trunk Railroad in Canada composed of practically the same men who represented that New England road.

Mr. GARRETT. Are there any local directors?

Mr. PIERCE. Mr. Murdock is the local director and vice president of the Southern New England road.

Mr. POT. He is the local representative?

Mr. PIERCE. Yes, sir; he is a resident of Providence, R. I.

STATEMENT OF MR. NORMAN H. WHITE, OF BOSTON, MASS.

Mr. O'SHAUNESSY. Mr. Chairman, I now introduce Mr. Norman H. White, of Boston.

Mr. WHITE. Mr. Chairman, I do not appear here in the capacity of a commissioner of the State of Massachusetts; I appear as a humble citizen of that State, one who has for a period of seven or eight years fought the progress of the greatest monopoly on land or sea that has ever been established in this country. It was established, gentlemen, contrary to the laws of Massachusetts and contrary to the laws of the United States. And while the gentlemen from Providence have been advancing this Grand Trunk proposition as a local affair, this whole monopoly is as interesting to the city of Boston as to the State of Maine; it is as interesting to the city of Portland as to the city of Providence. I shall trace this monopoly as it has gone its course rejoicing and jeering at the people of the good old Bay State. It was my privilege to be for four years chairman of the ways and means committee of the house in the Legislature of Massachusetts—four years on the committee, and two years as chairman—and what I tell you I tell you as a man believing that all I shall tell you is true. I have no interest in the New Haven—I mean I have no interest in the New Haven road, direct or indirect; I have fought this proposition ever since its inception, and I want to present, first, to the committee a map, which shows in a very complete way the extent of the New Haven's control of the New England States. You will see over there [indicating on map] it is all red, and now that is all blue. All that is blue is New Havenized, and, not only that, but everything on the high sea, contrary to the laws of the United States, as shown by the suit instituted by Theodore Roosevelt and vigorously pressed by Attorney General Bonaparte and dropped for no good and sufficient reason by President Taft a very short time after he assumed office.

Mr. FOSTER. Give the reason which President Taft assigned for that. Have you the reason there, so that it can go into the record?

Mr. WHITE. Yes; Mr. Chairman, I have what the committeeman has asked for. I have two letters from President Taft here, which I

will submit to the committee, and my answer thereto. In brief, President Taft's letter in answer to mine last April stated that the reason that the suit was dropped by the Department of Justice was that they were unable to win a suit of this kind; and he further stated that the Union Pacific and the Southern Pacific cases, which have been pending in the lower courts, were specific examples of a character showing why they could not win. You know the recent decisions of the Union Pacific and Southern Pacific cases in the United States Supreme Court as well as I do. The result is that New England lies helpless. The suit was dropped for no good reason, as exemplified by these letters, which I will produce later.

I see by this House resolution that you do not alone consider the Grand Trunk; and it is the monopoly as established which, with your kind permission, I would like to go into. This resolution says: "Said committee shall inquire whether said railroad corporation has any relations or affiliations or enters into any agreements in violation of the aforesaid laws. Said committee shall inquire into the causes that brought about the cessation of work by the Southern New England Railway Co. on its projected railway in Massachusetts and Rhode Island or any other States." I will present later a copy of the United States suit as drafted by Attorney General Bonaparte and vigorously pressed by our district attorney, Asa P. French.

Again, this resolution says "also whether the New York, New Haven & Hartford Railroad, through the persons owning its stock, its officers or agents, has or has had any relation with the Grand Trunk Railway Co. of Canada, the Southern New England Railway Co., street railroad companies, steamship companies, or national banking companies, trust companies, insurance companies, or other corporate organizations or companies, or with the stockholders, directors, or other officers or agents of said companies, or with any person or persons, which have caused or have a tendency to cause any of the results following:

First. The strangling of threatened competition by preventing the construction or operation of new lines of steam railroads, street railroads, steamship lines.

Second. The restriction or destruction of competition in steam railroad, street railroad, and steamship transportation.

Third. Excessive capitalization of such corporation and the issuing of large bond and stock issues not representing real values.

Fourth. Combinations created by ownership of control by one corporation or the stockholders or bondholders thereof of the stock or bonds of other corporations or combinations between the officers or agents of one corporation and the officers or agents of other corporations by duplication of directors or by other means or devices.

Fifth. Speculations in stocks and bonds by agreement among officers and agents of corporations to depress the value of the stock and bonds of other corporations for the purpose of acquiring or controlling same.

Sixth. Failure to provide safe equipment and roadbed in the operation of said railroad.

So, gentlemen, this inquiry is not in any wise a local one; it pertains to the entire of New England. I shall trace it from the Massachusetts viewpoint, and I shall show you the public sentiment against the steps taken by the road; how public sentiment was absolutely ignored, and how, through a holding device known as the Boston Railroad Holding Co., which in itself is illegal and contrary to the Sherman Act, a collar of monopoly was established for all the New England States by the act of the Massachusetts Legislature in the year 1909.

Mr. Chairman, Massachusetts laws have been, I might well say, a model for a great many of our sister States, and way back in the years Massachusetts drafted a law which was as distinct and clear as any law could be. It said that no transportation company could buy or hold, directly or indirectly, the stock or bonds in any other corporation, not railroads alone, but in any kind of corporation, until said transportation company had obtained permission from the legislature. That law was to protect our investors and to protect our savings-bank funds, and it was to stop that very kind of thing that the New Haven has done this thing in defiance of that law. There was no penalty.

From the year 1874 steps gradually were taken. A committee of the New Haven directorate, composed of Robert W. Taft, Mr. Brush, and the then president of the New Haven system, were ordered, by a vote of the directors, to go forth and devise ways and means to consolidate the trolleys in New England. With that law of 1874 on the books, and that law had been copper riveted three or four times, saying that no railroad should indorse the stocks or bonds or debts of any other company, that committee reported a method to go forth and buy the trolleys. The committee went forth, and because it had a charter in Connecticut they said we are not under Massachusetts law in Massachusetts, although we have a charter in Massachusetts, and acting under our Connecticut charter we will go forth, and through various devices we will help ourselves to all the trolleys in Massachusetts that we may deem desirable. Mr. Chairman, it was discovered that three years prior to the year 1905 or 1906 these eminent gentlemen, who are now trying to stifle the Grand Trunk, had purchased more than 500 miles of trolley lines in Massachusetts near Worcester, in the western part of the State, in absolute defiance of the Massachusetts law. They said, we are acting under our Connecticut charter, and the attorney general of Massachusetts brought suit, and by a unanimous opinion of our good supreme court in Massachusetts they were told they were outside of Massachusetts law, and they were obliged to give up those trolleys and not to hold them further, directly or indirectly. They gave them up and placed them in the hands of the New England Investment and Security Co., and held them in open defiance of the decision of the Supreme Court of Massachusetts for a series of years. Perhaps the eminent counsel of the New Haven would dare go before the grand jury in New York and state how those roads are held now.

The gentleman on your right, Mr. Chairman, has asked about the status of things now. Our condition is this: This suit was started. The suit was stopped for no good reason. We have a bill here, and I ask you, Mr. Chairman, is there any more reason now to suppose that Mr. Wickersham will resurrect this suit than there was before when they stopped it?

Mr. HARDWICK. The statement was made before this committee this morning that, acting under instructions from the Attorney General, steps were now being taken before the Federal grand jury in the eastern district of New York to prosecute the road for this very transaction. Is that correct or not? I am asking for information.

Mr. WHITE. I do not know whether it is correct. What I say is this: The present Attorney General of the United States has already examined and analyzed this question, and upon such examination he

dropped it. The principal thing that has occurred since then is the breaking of the pledge that the Grand Trunk would build into Boston and Providence. I ask the committee, is it fair to assume that an Attorney General, once having said there is nothing doing, would be in a very delicate position if he started action again?

Mr. HARDWICK. The statement was made here positively that he was having this matter investigated before the grand jury for the eastern district of New York.

Mr. WHITE. He may be investigating it. I do not know what the grand jury is doing.

Mr. HARDWICK. It was also stated that the grand jury were swearing witnesses and hearing testimony on this very proposition.

Mr. WHITE. I have read it in the newspapers.

Now, gentlemen, I want to submit to you a speech by the Hon. Robert M. La Follette on this question made on the floor of the United States Senate Tuesday, April 12, 1910. I think you will find there that Senator La Follette says that a committee of the New Haven road were authorized to do as I have said, they were ordered to proceed to find methods of buying the trolley lines of New England.

Mr. BUCKLAND. The trolleys referred to at that time were trolleys in the State of Connecticut and not in the State of Massachusetts.

Mr. WHITE. Whether in Connecticut or not, it made no difference. They went out and bought the Massachusetts trolleys. You do not dispute that.

Mr. BUCKLAND. I do not know whether this committee has anything to do with that.

Mr. WHITE. It is in the resolution.

Mr. BUCKLAND. No; you are incorrect again. It does not say that. It says "to bring under one control trolleys constructed and to be constructed."

Mr. WHITE. I would like to read the resolution.

Mr. BUCKLAND. I mean the resolution referred to in Senator La Follette's speech.

Mr. WHITE. I am referring to this resolution, under which this committee is acting.

Mr. BUCKLAND. I thought you were referring to the one in Senator La Follette's speech.

Mr. WHITE. That was the question of the absorption of competitive trolleys in New England. As I said, three years previous to 1906, the New Haven road had purchased more than 500 miles of trolleys in Massachusetts, and the attorney general did proceed to prosecute and the supreme court did say those trolleys should be given up, and they were given up, I believe, and placed in the hands of the New England Investment & Securities Co., which was controlled by the New Haven road.

In the year 1905 this trolley agitation in Massachusetts had assumed considerable proportions, and in 1905 the Boston & Maine, which was then practically the only competitor that the New Haven had running north from Boston into New Hampshire and Maine, and along the coast, the Boston & Maine brought in a bill to buy trolleys. They at that time had only about 28 miles of trolleys, and they said to the Massachusetts legislature, "Please let us do legally what the New Haven road is doing illegally." As a result of that the bill was killed, and largely killed through the efforts of the New Haven road.

The New Haven did not want the Boston & Maine to do legally what they were doing illegally, and as a result of that killing of that bill, Curtis Guild, then governor of Massachusetts, sent in a special message, saying:

I congratulate you on the defeat of a measure that would have sanctioned the possible consolidation of all possible transportation in Massachusetts under the control of a single corporation. The present railroad situation, however, is most unjust and inequitable. Our steam-railroad system is forbidden to meet the competition of electric street-car lines by purchase or control of their stock, but another controlled by men who are not citizens of Massachusetts is not only permitted to exercise that privilege but is exerting it to-day to such an extent that healthy competition in western Massachusetts is almost throttled.

Slowly, surely, the control of our own railroads, the control of passage to market of every Massachusetts product, the control of the transportation to and from his work of every citizen of Massachusetts, is passing from our hands to those of aliens.

I therefore urge upon you with all the strength that is in me the passage of some legislation giving relief from this grave injustice. Let Massachusetts announce that transportation within her borders is in the future to be controlled by the people of Massachusetts, and not by men beyond the reach of her law and the inspiration of her ideals.

That was Gov. Guild. Later I shall show how the Democratic governor, Gov. Douglas, after careful investigation, made a very strong statement against the railroads owning trolleys. Later I shall show also how Gov. Draper approved of certain holding devices, and how Gov. Foss was against them. These governors have been pronounced against the New Haven road securing control. The Boston & Maine requested permission to do a thing legally that the New Haven road was doing illegally, and Gov. Guild sent in his message on June 23, 1906, after a recess committee of the Massachusetts Legislature had sat upon the question; and at that time the New Haven asked the attorney general of Massachusetts to bring suit, and the attorney general did bring suit, and I remember very well, Mr. Chairman, the day the suit was started. I remember that there was legislation brought into the Massachusetts Legislature which would be most drastic, in the year 1906, against the New Haven outfit. I remember, Mr. Chairman, that counsel for the New Haven appeared before the committee of the legislature, the railway committee and the street railway committee, sitting jointly, and he was asked by Chairman Walker, of that committee, who has since been speaker of the house of the Massachusetts Legislature, whether or not they proposed to buy more trolleys in Massachusetts.

It was the end of the legislative session, and the members wanted to go home, and Mr. Walker, being keen and not trusting the response that was made him by counsel that they would enter upon no more acquisitions in Massachusetts, asked Mr. Mellen if he would give a letter outlining what they would do until this so-called merger problem was settled. Mr. Mellen said he certainly would, and he went away; and, Mr. Chairman, this was the letter that the chairman of the joint committee received—it is dated June 27, 1906, addressed to Representative Joseph Walker, Esq., and says:

MY DEAR MR. WALKER: I have communicated with Mr. Mellen by telephone and got from him the following:

"Mr. Mellen authorized Mr. Choate to state to the legislature that they will not enter upon further acquisitions in Massachusetts other than those already contracted for, or build any trolley lines excepting such as are now under actual construction, until such times as the merger question has been settled. Mr. Mellen is willing, if the committee desires it, to furnish a list of properties already contracted for or under construction, to avoid any future misunderstanding."

Yours, truly,

CHARLES F. CHOATE, JR.

Now, Mr. Chairman, our legislature went home with this solemn pledge of Charles F. Choate, jr., counsel for the New Haven road. They went home, and shortly thereafter the New Haven road went out and bought four huge trolley systems, while they were being sued by the attorney general; they purchased more than 40 per cent of the entire Boston & Maine system, and I ask the counsel if that is not a fact. Mr. Chairman, you see, on a major proposition such as this, where a solemn pledge was given and the promise was broken, counsel for the New Haven road is silent.

Mr. BUCKLAND. Mr. Chairman, I do not know that you care to have me get into any wordy altercations with this gentleman. I assume you desire this hearing to be conducted in an orderly manner, but I do not like to have such imputations go unchallenged.

The CHAIRMAN. I think that each one of you gentlemen should confine himself to his own argument.

Mr. BUCKLAND. I desire to have it stricken from the record that my silence gives consent.

Mr. WHITE. To substantiate the statement that the consolidation was made while the attorney general of Massachusetts was suing, I will read to you from a report of Attorney General Malone, dated January 21, 1909, and I would like to submit the report to the committee. This is from the attorney general's annual report. He said:

The corporation has also, without the authority of the Commonwealth, in direct violation of section 47, between the year 1898 and the year 1907, increased its capital stock from \$47,500,000 to \$121,878,000. And it seems clear, therefore, as the attorney general says, "That the policy of the road and the results of that policy are contrary alike to the declared public policy of the Commonwealth and the statutes thereof, and that the charter and franchise of such corporation is therefore subject to forfeiture, and it only remains to determine what can be done."

Mr. Chairman, I submit that that was a pitiful condition in which to find Massachusetts. First, the trolleys, contrary to Massachusetts law, and then while the trolley case was pending the same road proceeded to take the entire Boston & Maine system, and, incidentally, as the attorney general says, increased illegally in Massachusetts the capital stock from \$47,000,000 to \$121,000,000 in round numbers.

Then, Mr. Chairman, the merger, so called in New England, was upon us in leaps and bounds, and, Mr. Chairman, I dare say that there was scarcely a hamlet or city in the State of Massachusetts that was not really shaken to its foundations on this proposition. I will submit here evidence of the same. A league of public-spirited citizens was formed to agitate a sentiment on this question. I have here the list of officers and will insert it at this point.

It is as follows:

LIST OF OFFICERS IN THE MASSACHUSETTS ANTIMERGER LEAGUE.

Chas. H. Jones, president. President Commonwealth Shoe & Leather Co., vice president Shoe & Leather Association, director First National Bank.

George L. Barnes, secretary. Attorney at law, trustee South Weymouth Savings Bank, ex-representative in the legislature, insurance recess committee 1906-7.

Chas. P. Hall, treasurer. Vice president American Hide & Leather Co., vice president New England Shoe & Leather Association.

Henry Abrahams, assistant secretary. Secretary Central Labor Union, member executive committee Civic Federation of New England.

Vice presidents.—Frank A. Allen, president Oriental Tea Co., Boston; ex-mayor of Cambridge. George W. Anderson, attorney at law; counsel Public Franchise League. Rev. A. A. Berle, Crombie Street Congregational Church, Salem. M. F. Blanchard,

director Northwestern Fisheries Co.; president T Wharf Fish Market Corporation; vice president and director New England Fish Co. A. G. Bookwalter, Springdale, North Wilmington. Louis D. Brandeis, attorney at law, Boston. John T. Connor, president and treasurer J. T. Connor Co., Grocers, Boston. Sidney S. Conrad, Conrad & Co., Boston. John A. Coulthurst, attorney at law, Independence League candidate for mayor of Boston. William Craig, chairman board of selectmen, Brookline; director Fruit and Produce Exchange, Boston. F. F. Cutler, president and director Shoe Retailer Co.; president and treasurer Shoe and Leather Reporter. Arthur C. Farley, Farley, Harvey & Co.; treasurer and director Boston Merchants' Association; member executive committee Boston Association Board of Trade. A. Lincoln Filene, president Wm. Filene's Sons Co., Boston. John Golden, president United Textile Workers' Union, Fall River. Frederick W. Hamilton, president Tufts College, Medford. John J. Higgins, attorney at law; district attorney for Middlesex County, Somerville. Edward F. X. McCarthy, secretary Amalgamated Sheet Metal Workers' International Alliance, Boston. Frank H. McCarthy, general organizer American Federation of Labor, Roxbury. Charles E. Osgood, president C. E. Osgood & Co., furniture, Boston. Prof. Frank Parsons, Boston. Harvey H. Pratt, attorney at law; former district attorney, South Easton district, Boston. Carleton D. Richardson, worthy master, Massachusetts State Grange of Patrons of Husbandry, West Brookfield. Felix Vorenberg, F. Vorenberg & Co., jewelers, Boston. Henry White, president University Press, Cambridge. William G. Walker, president Austin-Walker Co.; president and director Austin-Walker Manufacturing Co.; director Foster Manufacturing Co., London, England; director Stork Co., Brookline. Norman H. White, representative in the legislature from Brookline; treasurer Boston Bookbinding Co., Cambridge; director Winthrop Mills Co., Winthrop, Me.; director Clinton Mills Co., Norwich, Conn.

Here is a letter from the Newport (R. I.) Mercury, outside of Massachusetts, which says:

EXTRACT FROM NEWPORT (R. I.) MERCURY, JUNE 5, 1909.

The Massachusetts Legislature is beginning to get over its fright in regard to the merger of the Boston & Maine and the New Haven Railroads. The legislative committee has reported in favor of a holding company for the so-called Billard stock and provides that the company may be financed by any railroad company. That means that the New Haven company may finance a company which shall take over and hold the 110,000 shares of Boston & Maine stock that was bought by the New Haven people and turned over to a dummy holder in the person of one Billard, of Meriden, Conn., when the Massachusetts courts decided that the New Haven people could not hold the stock.

And so on down the line. From Fitchburg we have the following extract from the Sentinel of that city:

EXTRACT FROM FITCHBURG (MASS.) SENTINEL, JUNE 4, 1909.

It is all right for Gov. Draper to send to the legislature a special message embodying his views about a holding railroad company, but when he calls in a member of the railroad committee and gets him at the disadvantage of confronting the governor and attorney general of the State, then he goes altogether too far. Yesterday few people in the State ever heard of Representative John W. Haigis, of Montague. To-day he ought to be held in general respect because he refused to change his attitude even when under the pressure of the two officials named.

Then from the New York Journal of Commerce we have the following:

That such a monopoly, under such supervision as Massachusetts could exercise, would result in improved railroad service is altogether doubtful. That is not the usual effect of complete lack of competition. But the greatest danger lies in the political power of such a combination. That of both companies has already been a scandal, one in Connecticut and the other in New Hampshire and Maine, and if Massachusetts can claim superior virtue in that respect it may put itself under a strain greater than it can bear. Perhaps the first test will come in giving consent to the merger. If that is given, the dominant factor in all New England politics, so far as transportation interests are concerned, is likely to be not the State of Massachusetts but the New York, New Haven & Hartford Railroad Co.;

We also have this from the Greenfield Recorder, of June 2, 1909:

EXTRACTS FROM GREENFIELD (MASS.) RECORDER, JUNE 2, 1909.

The bill permits a railroad company to finance that company, and there is no occasion to question what railroad company it will be. The New Haven road has a string attached to the stock held by Mr. Billard and can deliver it to the holding company and will do so, provided only and always that it is the company to control the holding company. This will complete a circle in the State's performance: First, the New Haven road compelled to part with its stock; next, its ownership by a citizen of Connecticut recognized as such a parting, then the suggestion that a company be formed to hold it in Massachusetts and the New Haven road's active interest to have this done, then the creation of the company, its financing by the New Haven, the return of the stock, and finally the New Haven in possession again.

* * * * *

Citizens who have been favorable to the merger and still keep their interest in the State uppermost will hesitate to approve the accomplishment by indirection and under false colors of the thing the State has stood out against when directly proposed. It shows the New Haven road much more masterful than the Commonwealth has yet shown itself.

* * * * *

A much shorter and quite as safe a bill could be framed if the State has come to the conclusion that the New Haven company should have this stock restored to its control. It would read:

"Be it enacted, etc., That the New York, New Haven & Hartford Railroad Co. is hereby permitted to buy and hold the stock of the Boston and Maine Railroad."

Such enactment would be a bit humiliating after the effort to prevent just this thing, but not more so, indeed rather less so, than the attainment of the same end by the operation of a bill which creates a tertium quid called into being for no other purpose, and under the disgrace that attaches to uncertain parentage.

Then I want to present to you the resolution of the Brockton Association of Superintendents and Foremen. Brockton is that great shoe town. They went emphatically against allowing this Boston & Maine merger.

RESOLUTION OF BROCKTON ASSOCIATION OF SUPERINTENDENTS AND FOREMEN OPPOSING A MERGER OF THE NEW HAVEN AND BOSTON & MAINE SYSTEMS.

Resolved, That we most emphatically disapprove of the proposed merger of the Boston & Maine Railroad with the New Haven system. We can see in this proposition no probability of either lower freight rates for the manufacturer or better service to the public. We have learned from observation and experience that the leasing and consolidation of railroads is usually brought about by persons interested in the manipulation of securities and the profits derived therefrom, and are not undertaken in the interests of the people who are called upon to pay the increased charges made necessary by such operations.

The policy of rapid extension and the determined and costly destruction of competition which has characterized the management of the New Haven Co. in recent years, warrants the belief that the monopoly which they seek will not be used for the promotion of the transportation interests of Massachusetts, but rather as a means of securing for their stockholders dividends on large sums, invested by methods and for purposes not in the interests of the people of this State.

We believe that the great resources of the New Haven railroad and the unquestioned ability of its officers can be most fully and profitably employed in the upbuilding and development of its present extensive properties, and in the improvement and perfection of the details of its service to the traveling public and the merchants and manufacturers of this State.

Be it therefore resolved, That a copy of these resolutions be sent to the president of the senate and to the speaker of the house, and to the four representatives of this district in the legislature, and that a committee be appointed to attend the hearing before the committee on railroads and present these views.

REMARKS OF HIS HONOR, JOHN S. KENT, MAYOR OF THE CITY OF BROCKTON, AT THE MEETING AT WHICH THE FOREGOING RESOLUTION WAS ADOPTED.

Mr. President, guests, and members of this association, I want to thank the three gentlemen who have just spoken—officers of the Massachusetts Antimerger League—for their clear expressions of the calamity that would result from the control of the Boston & Maine by the New York, New Haven & Hartford Railroad. We in Brockton realize what it means to be a noncompetitive point as regards the great industry of this city—the shoe trade. Instead of urging the merger we should advocate before the Legislature of Massachusetts the necessity of new railroads in this State to encourage competition. The public sentiment of the State is opposed to the merging of the New York, New Haven & Hartford Railroad and the Boston & Maine. The legislature of this grand old Commonwealth of ours will be true to its traditions and not attempt to stifle competition.

The New England Dealers' Hardware Association, in convention assembled, March 12, 1908, passed the following resolutions:

Believing that the merger of the Boston & Maine with the New York, New Haven & Hartford or any other system, and the complete destruction of competition which would result therefrom, would inevitably increase the cost of transportation:

Be it therefore resolved, That our experience has proved that such consolidation of other railroad systems operated within our borders has not worked to the advantage of merchant and consumer, nor is it in accordance with the well established policy of the Commonwealth, therefore it should be made impossible by definite legislative enactment.

Be it therefore resolved, That this association is opposed to any such consolidation and that the secretary of this association be authorized and instructed to present these views to the governor and representatives and take such further action as may seem wise to safeguard the interests of this association in this matter.

CHAS. L. UNDERHILL, *Secretary*.

Representative Underhill voted in favor of the merger always.

And the little town of Hudson, by its board of trade, passed the following resolution:

The Hudson Board of Trade, in regular meeting assembled, do hereby record their strong opposition to the proposed merger of the Boston & Maine with the New Haven system.

Whereas we believe that the people of this Commonwealth are entitled to the most efficient service, and lowest cost of transportation, from the railroads which they support; and

Whereas they are assured of this only when there is a reasonable competition between railroads, such as does exist at present; and

Whereas a consolidation of two such big systems would result in a complete monopoly most destructive to business interests, hence most detrimental to the welfare and progress of the people: Therefore be it

Resolved, That the Hudson Board of Trade use every reputable method against the legislation of this proposed merger.

New England's great shoe industry, the New England Shoe & Leather Association, in which there is more money invested than in any other industry, and the following resolutions were adopted by a vote of 200 to 2 against the railroad monopoly:

Met at Somerset. William Whitman in favor.

New England is noted for her manufactures. The largest manufacturers' association in New England is the New England Shoe & Leather Association.

The following resolution was passed by this body at the Hotel Somerset March 10, 1908. This is what that great body of manufacturers think of the proposed monopoly of all transportation in New England in the hands of a few men.

Be it resolved, That the New England Shoe & Leather Association, representing the greatest manufacturing industry in Massachusetts, believes—

“That owing to our geographical situation, remote from our raw material and from the market for our finished product, the most efficient service and the lowest possible cost of transportation is essential to the continued growth and prosperity of our industry.

“We believe that the system of reasonable competition in transportation which has heretofore been maintained by the wise laws of the State, supplemented by the

supervision of the Interstate Commerce Commission and the board of railroad commissioners, should be preserved and continued, and that any effort to create a monopoly in the transportation should be vigorously resisted.

"We believe that the merger of the Boston & Maine with the New Haven system and the complete destruction of competition which would result therefrom would inevitably increase the cost of transportation, would retard development and needed improvements in service, and is contrary to the well-established policy of this Commonwealth, and should be made impossible by definite legislative enactment.

"Be it therefore resolved, That this association is unalterably opposed to any such consolidation, and the president of this association is hereby authorized and instructed to appoint a committee of three to present these views at all legislative hearings bearing on this subject, to present to the governor these resolutions, and take such further action as may to them seem wise to protect the interests of this industry in this matter."

In the agricultural districts, the strongest body of men in Massachusetts, organized years ago the Massachusetts State Grange of the Order of Patrons of Husbandry. This organization is known throughout New England as one which stands for the best interests of Massachusetts in commerce and industry, and especially stands for the best interests of the agricultural body.

At a meeting duly called for the purpose, the Massachusetts State Grange adopted the following resolution. This is what this great body of agricultural men think of the proposed monopoly:

"Resolved, That the executive committee of the State Grange use every effort against the proposed merger that will come before the legislature this winter."

Yours, truly,

GEORGE L. BARNES, *Secretary.*

The business men of Brockton adopted the following resolution opposing a merger of the New Haven and the Boston & Maine systems:

RESOLUTION OF BROCKTON BUSINESS MEN OPPOSING A MERGER OF THE NEW HAVEN AND BOSTON & MAINE SYSTEMS.

At a meeting of more than 300 of the business men of Brockton held at the Porter Church, Friday, March 20, it was unanimously

Resolved, That we most emphatically disapprove of the proposed merger of the Boston & Maine R. R. with the New Haven system. We can see in this proposition no probability of either lower freight rates for the manufacturer or better service to the public. We have learned from observation and experience that the leasing and consolidation of railroads is usually brought about by persons interested in the manipulation of securities and the profits derived therefrom, and are not undertaken in the interests of the people who are called upon to pay the increased charges made necessary by such operations.

The policy of rapid extension and the determined and costly destruction of competition which has characterized the management of the New Haven Co. in recent years warrants the belief that the monopoly which they seek will not be used for the promotion of the transportation interests of Massachusetts, but rather as a means of securing for their stockholders dividends on large sums, invested by methods and for purposes not in the interests of the people of this State.

We believe that the great resources of the New Haven Railroad and the unquestioned ability of its officers can be most fully and profitably employed in the upbuilding and development of its present extensive properties and in the improvement and perfection of the details of its service to the traveling public and the merchants and manufacturers of this State.

Be it therefore resolved, That a copy of these resolutions be sent to the president of the senate, and to the speaker of the house, and to the four representatives of this district in the legislature, and that a committee be appointed to attend the hearing before the committee on railroads and present these views.

Mr. Chairman, practically every labor union in Massachusetts, representing more than 300,000 men, in meetings assembled voted against the merger. I will insert there a list of the labor organizations which passed that motion against the merger.

The following labor organizations in the year 1908 passed resolutions in meeting assembled against the consolidation of the New York, New Haven & Hartford and Boston & Maine Railroads.

Athol: International Association of Machinists, Lodge No. 750; Retail Clerks, Local No. 655; Metal Polishers, Buffers, etc., Union of North America, No. 118; American Federation of Labor, Local No. 11891.

Boston: Amalgamated Society of Engineers, No. 647; Amalgamated Society of Carpenters and Joiners, Branch No. 2; Amalgamated Brotherhood of Cement and Asphalt Workers, Local No. 20; Brotherhood of Painters, Decorators, and Paper Hangers of America, Local No. 391; Association No. 3 of Lithographers' International Protective and Benefit Association of United States and Canada; Car Workers of Somerville, Lodge No. 198; Division No. 373, Amalgamated Association of Street Railway Employees of America; Cabinet Makers and Mill Men's Local No. 1824, United Brotherhood, Carpenters; National Federation of State, City, and Town Employees; Grocery and Provision Clerks of Boston, Local No. 539; Waiters' Union, Local No. 80; Hebrew Actors' Protective Union, No. 7, Section 2; International Alliance of Hod Carriers Building Laborers Union of America; International Union United Brewery Workers of America, Local No. 122; Shirt Waist and Laundry Workers International Union, Local No. 66; Photo Engravers Union, No. 3; Longshoremen's Trades Council; Retail Clerks' International Protective Association, Local No. 796; Public Grounds Department Employees Union, No. 12434; Mailers Union No. 1; Pattern Makers Association; Hod Carriers and Building Laborers Union, No. 209; Local No. 7, Bakery and Confectionery Workers Union; International Union of Steam Engineers, Local No. 263; Wood Carvers Association; International Alliance of Theatrical Stage Employees of the United States and Canada, Local No. 11; Ship Machinery and Derrick Riggers Union, No. 10315; Piano, Organ, and Musical Instrument Workers International Union of America, No. 21; Custom Tailors Union, No. 12; Roxbury Local Union, No. 16, International Union of Steam Engineers; Ladies' Tailors and Dressmakers Union, No. 36; International Brotherhood of Electrical Workers, Local Union No. 103; Furriers' Union; Knights of Labor, District Assembly, No. 30; United Boiler Makers and Iron Ship Builders of North America, Local No. 9 of East Boston; Knights of Labor, Local No. 7576 of Roxbury.

Brocton: Dressers and Packers, Local No. 365; Boot and Shoe Workers Union, Local No. 118; Bricklayers and Plasterers Union, No. 5; Elastic Goring Weavers Amalgamated Association of the United States.

Brookline: Piano, Furniture Movers and Helpers, Local No. 343;

Cambridge: City Employees Union, No. 8279; Sewer Workers Union, No. 12231; Central Labor Union.

Chicopee Falls: Central Trades Council.

Dedham: United Brotherhood of Carpenters and Joiners of America, Local No. 892; Stone Masons Union, No. 42.

East Weymouth: Boot and Shoe Workers Union, Local No. 53.

Fall River: Loom Fixers' Association; Central Labor Union; United Brotherhood of Carpenters and Joiners of America, Local No. 1305; Musicians Protective Union, No. 216; Bricklayers, Masons, and Plasterers International Union, No. 11 of Massachusetts.

Fitchburg: Central Labor Union; International Brotherhood of Paper Makers, Local No. 12; International Brotherhood of Stationary Firemen, Local No. 85.

Foxboro and Norwood: Iron Molders Union of North America, Local No. 323.

Gardner: Journeymen Barbers International Union of America, Local No. 550.

Haverhill: International Alliance Theatrical Stage Employees, Local No. 111; United Association Journeymen Plumbers, Gas Fitters, Steam Fitters and Helpers of the United States and Canada, Local No. 486; Joint Shoe Council, No. 2, Boot and Shoe Workers Union.

Haydensville: Metal Polishers, etc., of Williamsburg, Local No. 65.

Holyoke: Brotherhood of Railroad Trainmen, Lodge 557; International Association Association of Steam, Hot Water, and Power Pipe Fitters and helpers; Bartenders Union, Local No. 81; Musicians Protective Union, No. 144; Typographical Union, No. 253; Local Union, No. 4, International Brotherhood of Stationary Firemen; Bakery and Confectionery Workers International Union of America, Local No. 93; International Molders Union, No. 115; Carpenters District Council.

Hyde Park: International Association of Machinists, Local No. 345.

Lawrence: International Brotherhood of Stationary Firemen, No. 18; Woolsorters Union, Local No. 349; International Union of Steam Engineers, Local No. 235; International Brotherhood of Maintenance of Way Employees; Loom Fixers Union, No. 38.

Leominster: Barbers Union, No. 518; Textile Workers Union, No. 323.

Lowell: Trades and Labor Council; Typographical Union, No. 310; Bricklayers Union, No. 31.

Lynn: City Employees Union, No. 12326, American Federation of Labor; Local No. 1, Edge Makers Independent Union; Amalgamated Association of Street Railway Employees of America, Division No. 238.

Malden: United Association Journeymen Plumbers, etc., Local No. 145; American Federation of Labor, No. 8217; International Brotherhood Teamsters, Local No. 314.

Mattapan and vicinity: International Brotherhood of Stationary Firemen, Local Union No. 242.

Medfield: Painters, Decorators, and Paper Hangers, Local No. 772.

Milford: Bartenders Union, No. 96, subordinate to Hotel and Restaurant Employees; International Alliance and Bartenders International League of America; Central Labor Union; Derrickmen's Branch Quarryworkers International Union, Local No. 88.

Milton: Brotherhood Painters, Decorators, and Paperhangers of America, Union No. 638.

New Bedford: Bricklayers, Plasterers International Union, No. 39; Typographical Union, No. 276.

Newton Center: United Brotherhood of Carpenters and Joiners of America Union, No. 680; United Brotherhood of Carpenters and Joiners of America Union, No. 1600.

Newton: City Employees Union, Local No. 13380.

Newburyport: Bricklayers, Masons, and Plasterers, Local No. 41.

North Adams: Shoe Cutters' Union, No. 163; United Brotherhood of Carpenters and Joiners of America, Local No. 193.

Northampton: Musicians Protective Union, No. 220.

Pittsfield: United Brotherhood of Carpenters and Joiners of America, No. 444; International Association of Machinists, Berkshire Lodge, No. 435; International Brotherhood of Teamsters, Local No. 368.

Plymouth: General Teamsters and Helpers Union, Local No. 332.

Quincy: Central Labor Union; International Association Machinists, Local No. 108; United Brotherhood of Carpenters and Joiners of America, Local No. 762; International Union of Steam Engineers, Local No. 79.

Rockland: Boot and Shoe Workers Union, Local No. 371; Boot and Shoe Workers Union, Local No. 48.

Salem: Painters, Decorators, and Paper Hangers, Local No. 247; Barbers Union, No. 385.

South Barre and vicinity: Woolsorters Union, Local No. 494.

South Braintree: Boot and Shoe Workers Union, Local No. 143.

South Framingham: Bricklayers, Stone Masons, and Plasterers International Union of America, Local No. 51.

South Walpole: Amalgamated Association of Street Railway Employees of America, Division No. 399.

Springfield: International Brotherhood of Electrical Workers, Local No. 7; Typographical Union, No. 216; Cigarmakers International Union of America, Local Union No. 49; Bartenders, Local No. 67; United Brotherhood of Carpenters and Joiners of America, Local Union No. 1105.

Stoughton, Canton, and Sharon: Brotherhood of Painters, Decorators, and Paper Hangers of America, Local No. 754.

Stoughton: United Brotherhood of Carpenters and Joiners of America, Local No. 1063.

Taunton: United Brotherhood of Carpenters and Joiners, Local 1035; International Molders Union of North America, Local No. 39.

Turners Falls: International Brotherhood Paper Makers, etc., Local No. 10, of Montague.

Wakefield: Piano, Organ, and Musical Instruments Workers International Union of America, Local No. 37.

Waltham: Norumbega Lodge, No. 465, International Association of Machinists; Bricklayers and Masons International Union of America, Local No. 15.

Ware: United Brotherhood of Carpenters and Joiners of America, Local No. 1630.

Whitman: Boot and Shoe Workers Union, Local No. 425 of Edgemakers; Tree Dressers and Packers, Local No. 105.

Winchendon: Maintenance of Ways Department Boston and Maine, Lodge, No. 62.

Worcester: Boot and Shoe Workers Union, Local No. 162; Hack Drivers Union, Local No. 422; Granite Cutters International Association of America, affiliated with Worcester Central Labor Union; International Union Cutting Die and Cutter Makers, Local No. 301; International Brotherhood of Teamsters, Local No. 308; International Association of Bridge and Structural Iron Workers, Local 57; International Union of United Brewery Workmen, Local No. 136; Carpet Weavers Association.

Then we have two statements from Commissioner Prouty, of the Interstate Commerce Commission. They are as follows:

NEW HAVEN MONOPOLY FREIGHT RATES.

(Statement of Interstate Commerce Commissioner Prouty to Massachusetts State Board of Trade. February 27, 1906.)

The peach growers of Georgia complained that the rates charged for the transportation of peaches to New York and Boston were excessive. Under the rates in force it cost about \$160 to transport a carload of peaches 900 miles from Georgia to New York, and it costs \$80 more to transport that same carload 230 miles from New York to Boston. The testimony showed that this carload of peaches would be taken from New York to Boston in a regular daily train of the New Haven Railroad, consisting of from 30 to 35 cars, hauled in a single night by a single engine and train crew. It also showed that in the same train would be carloads of other perishable commodities, as for example, dressed meat, with respect to which the New Haven road performed exactly the same service for \$30 per car, the difference being that the carload of peaches could only reach Boston over the New Haven road, while the carload of beef might reach it by several different routes. The commission held that the charge of \$80 per car was exorbitant, and recommended that the New Haven Company reduce that arbitrary to \$50 per car. The railroad complied by making a reduction of one-half that recommended, and the present rate is \$65 per car above New York. You are told that the people of New England can most safely rely upon the magnanimity of its railroads for reasonable freight rates. I call your attention to this case as an illustration of the sort of rates which result where railroad magnanimity, freed from all competitive or governmental restraint, fixes the transportation charge.

WHAT INTERSTATE COMMERCE COMMISSIONER PROUTY THINKS OF THE VALUE OF COMPETITION.

[Remarks to Massachusetts State Board of Trade, February 27, 1906.]

Referring to shipments of boots and shoes, he says:
“The class rates from New England are the same as those from New York, but this is not due to any grace upon the part of our New England railroads, but to competitive transportation conditions between New England and the West, as was well shown by a recent investigation of the commission upon complaint of certain shoe manufacturers (in 1904). It appeared in that case that the boots and shoes of New England moved largely to points like St. Louis via the Merchants and Miners’ Steamship Line to Norfolk or Baltimore, and from thence by the Chesapeake & Ohio, the Norfolk & Western, or the Baltimore & Ohio, as the case might be. The roads of New England transported these goods from the factory to Boston, receiving for that service their high local rate. The rate which they made to the West was determined by the rates which the shipper could obtain over this circuitous route. The railroads of New England declined to issue to the shipper a through bill of lading, but insisted upon the payment of their local charges to Boston and the issuing of a new bill of lading from Boston, thus embarrassing as far as possible the movement of traffic by this cheaper route. This of course was good business, but it was not magnanimity. There is very little magnanimity in either business or railroad rates. Where you eliminate competition from either the purchaser pays.”

The boot and shoe business is the largest industry in New England.

And then we have the reason why the Boston & Maine was needed by the New Haven, in this statement:

A REASON WHY THE NEW HAVEN WANTS THE BOSTON & MAINE—OPERATIONS FOR NINE MONTHS ENDING MARCH 31, 1909.

[Taken from reports to Massachusetts railroad commissioners.]

The New York, New Haven & Hartford R. R. Co.:	
Net income.....	\$17, 671, 806. 19
Charges.....	14, 829, 024. 51
<hr/>	
Balance for dividends.....	2, 842, 780. 68
Dividends paid.....	5, 883, 842. 00
<hr/>	
Deficit.....	3, 041, 061. 32

The Boston & Main Railroad:	
Net income.....	\$8, 739, 669. 49
Charges.....	7, 219, 845. 37
<hr/>	
Balance for dividends.....	1, 519, 824. 12
Dividends paid.....	1, 413, 964. 33
<hr/>	
Surplus.....	105, 859. 79

Then this happened at the State House: The Massachusetts State Board of Trade came to the legislature and said that this should not go through, and the Boston Chamber of Commerce bucked against it, and 500 labor men marched up Beacon Hill, and Theodore Roosevelt instructed the Attorney General to bring suit.

Then Mr. Louis D. Brandeis and T. E. Byrnes, vice president of the New Haven road, had a joint debate on this question before the chamber of commerce, which represents more than 3,000 of our great business men, and the chamber of commerce voted practically unanimously against the merger. These were the resolutions passed:

RESOLUTIONS PASSED BY THE BOSTON CHAMBER OF COMMERCE RELATING TO THE MERGER, AFTER A JOINT DISCUSSION BY MR. T. E. BYRNES, VICE PRESIDENT NEW YORK, NEW HAVEN & HARTFORD RAILROAD, AND LOUIS D. BRANDEIS, ESQ., AT WHICH THE WHOLE SUBJECT WAS CAREFULLY AND THOROUGHLY CONSIDERED. THE CHAMBER OF COMMERCE HAS MADE A MOST CAREFUL INVESTIGATION OF THE QUESTION WITH SPECIAL REFERENCE TO ITS PROBABLE RESULTS TO MASSACHUSETTS'S INTERESTS. THESE RESOLUTIONS SHOW THE CONCLUSIONS THAT HAVE BEEN REACHED BY THE BOSTON CHAMBER OF COMMERCE.

Resolved, That the Boston Chamber of Commerce is firmly opposed to the proposed control of the Boston & Maine Railroad by the New York, New Haven & Hartford Railroad for the following reasons:

1. Because it would place under one control a high percentage of the entire transportation facilities of the New England States, steam railroad, trolley lines, and coast-wise steam shipping, and because such unification of interests tends to constitute an undesirable monopoly.

2. Because such consolidation, with its inevitable consequences, would eliminate all competition, whether of rates, service, facilities, or treatment, and be in itself so unwieldy as to decrease rather than increase efficiency.

3. Because we believe it to be impossible for any legislative restraint or regulation to accomplish the ends which legitimate competition provides; and because neither the Massachusetts Legislature nor the Massachusetts railroad commission can exert any effective jurisdiction in interstate passenger and freight rates or service.

4. Because past experience proves that such centralized control of great public utilities would surely result in a dangerous political and most deplorable industrial permanent menace to the entire community.

5. Because of the probability that the vast increase in fixed charges which suggested improvements would compel would inevitably lead to an advance in rates in order to afford reasonable return on the investment which no probable increase of domestic traffic in New England would suffice to provide.

6. Because such rehabilitation as the Boston & Maine system requires and any probable traffic justifies must be paid for by issue of its own obligations, whether bonds, stocks, or notes..

7. Because we believe it would be decidedly to the advantage of Boston, Mass., and New England to have genuine competition provided by the Boston & Maine Railroad, being controlled by a strong trunk line to the West. Such line operating through northern Massachusetts, the New York Central operating through central Massachusetts, and the New York, New Haven & Hartford Railroad, with its connections, operating through the southern section would be of much greater benefit to the public than the proposed control with its elimination of competition.

8. Because we believe that the proposed control would result in confining traffic from the West via New York Central Railroad to Boston & Albany main line points and such points as are reached by its own branches.

9. Because absence of control of the Boston & Maine Railroad is no barrier to suggested or contemplated improvements upon the New York, New Haven & Hartford

Railroad itself, including the electrification of the basement of the South Terminal, thus providing for electrical operation of the suburban service as originally intended.

10. Because the separation of the two systems does not interfere with the rectification of a very large number of unreasonable rates now confessedly in existence on the New York, New Haven & Hartford system, the continuation of which naturally creates uncertainty as to the rates which it would establish in the event of complete control.

Finally, because we believe the acquirement of the 109,948 shares of the capital stock of the Boston & Maine Railroad by the New York, New Haven & Hartford Railroad, as well as the acquirement of various trolley lines by that corporation, was in clear defiance of the well-understood spirit, if not indeed of the exact letter, of Massachusetts law, and that such evident disregard of well-defined public sentiment should not be tolerated.

Resolved, In view of the foregoing, that a committee of five be appointed to appear before the proper committee of the Massachusetts Legislature and make known to it as strongly as possible the opposition of the Boston Chamber of Commerce to the contemplated control, and its opinion that the New York, New Haven & Hartford Railroad should not be permitted to retain the Boston & Maine Railroad stock which it now holds, and to take such further action in opposition as it may deem wise.

While this was going on the Brockton Board of Trade held another meeting. They passed the following resolutions:

The Brockton Board of Trade at its meeting Monday evening, April 13, adopted the following resolutions, which are respectfully submitted for your consideration:

Whereas since the acquisition by the New York, New Haven & Hartford Railroad of control of the Old Colony Railroad there have been numerous advances in freight charges by direct advances in rates and changes in classification; and

Whereas the Massachusetts Legislature is now considering the possibility of permitting control of the Boston & Maine Railroad by said New York, New Haven & Hartford Railroad Co.; and

Whereas the recognized policy of the latter company has been to obtain control of all rail and water competing transportation routes, at whatever cost necessary; and

Whereas the average freight rates per ton per mile charged by railroad companies as reported to the Massachusetts railroad commission and the Interstate Commerce Commission, respectively, in 1907 were as follows, namely:

	Cents.		Cents.
New York, New Haven & Hartford R. R.....	1. 44	Average in New England.....	1. 19
Boston & Maine R. R.....	1. 08	Average in United States.....	. 748
Boston & Albany R. R.....	. 88	Average in Middle States.....	. 65
New York Central & Hudson River R. R.....	. 60		

And

Whereas it is particularly vital to the welfare of every citizen of Massachusetts that legislation be enacted to prevent further absolute domination of transportation by a single corporation operating under laws repugnant to our Commonwealth:

Resolved, That in the opinion of the Brockton Board of Trade the provisions of chapter 585 of acts of 1907, relative to the stock of the Boston & Maine Railroad, stock now held by the New York, New Haven & Hartford Railroad Co., should be extended for another year to afford opportunity for more thorough discussion of the subject by the citizens of this Commonwealth, and to register their conclusions by referendum vote at the next State election;

Resolved, That the committee on transportation of this board are authorized and requested to appear in its behalf at any meetings of legislative committees, or otherwise, in support of these resolutions;

Resolved, That copies of these resolutions be sent to Gov. Guild, the president of the senate, the speaker of the house, and the chairmen of the senate and house committees on railroads, respectively.

ELROY S. THOMPSON,
Secretary Brockton Board of Trade.

Then we found our newspapers blocked with great advertisements like the one that I have here. This sheet I show you now has the railroad advertisement on one side and on the other side what the

people who are opposed to the merger had to say about it. This will show you what we were up against. The paid advertisement said:

To unite the New Haven with the Boston & Maine would not be a departure from the established policy of the Commonwealth, but a fulfillment of it.

Mr. Chief Justice Nolan, of the supreme judicial court, in delivering judgment on February 28, 1908, said:

We have adopted, in this State, legislative regulation and control as our reliance against the evil effects of monopoly, rather than competitive action between two or more corporations.

As a matter of fact, what the chief justice said was this:

In reference to some kinds of service and under some conditions, it is thought by many that regulation by the State is better than competition.

He was referring to some kinds of public service. These companies are carrying on to-day an advertising campaign which will cost them more than a half million of dollars.

In the paid advertisement they proceed as follows:

The Massachusetts railroad commission, then consisting of John E. Sanford, Everett A. Stevens, and William T. Dale, jr., said in 1893:

"Announcement that an agreement has been reached for the union or joint operation of two or more roads is, with rare exceptions, no longer received with grave apprehension of loss or prejudice to the interest of the public, but rather with the expectation of larger facilities for freight and passenger traffic, better stations and equipment, more stable and liberal rates, greater ability and higher standards of management, and a generally improved railroad service."

What the railroad commission really said was this, that it was in 1883 they made their statement. There were then eight railroads in Massachusetts independently operated. This commission never dreamed of a monopoly of steam railroads in Massachusetts. It never dreamed of a monopoly of all transportation. The statement on the other side is entirely misleading. Then in their paid advertisement the New Haven road says:

The Boston & Maine is a monopoly. So is the New Haven. To promote commercial competition a complete transportation monopoly is necessary.

At present the trunk lines play southern against northern New England and are not obliged to compete among themselves for New England freight. Competition in New England for the short haul to the Hudson and the small fraction of the through rate makes monopoly possible on the long trunk line haul and for the larger fraction of the through rate. *Competition in New England promotes monopoly beyond the Hudson. Monopoly in New England would compel competition beyond the Hudson.*

The cry of monopoly is an appeal to prejudice, not to experience or judgment.

And on the other side the opponents of the merger said this:

The last statement is *absurd on its face*. If the trunk lines combine to oppress New England, why should we expect them to compete on New England business? The real fact is that the New Haven, through its control of the Merchants & Miners' Transportation Co., has deprived us of the effective competition south and west which we had by way of Baltimore and Norfolk. *The New Haven is endeavoring now to deprive us (perhaps in the interest of the trunk line) of the remaining competition which we now enjoy over the Grand Trunk and Canadian Pacific.*

So I could go on at length. I have brought down only a few. I can present to this committee a petition signed by more than 25,000 people of the Commonwealth, protesting against this thing. In Marlborough there was not a single man with a store who did not sign his name promptly to the petition and the United States suit was being vigorously pressed, and the legislature said "Thank heaven, we can go home, because the United States Government is taking care of

New England." While that suit was pending they put in a bill to give them back one principal college. They appeal to the flag of the United States, and the monopoly forces through a bill which gave them back one of the colleges, while the United States has drafted this bill against them. They got back their control with that suit pending. Then we went home. That was in 1908, when this Boston & Maine business was clear in the minds of the public, while the United States Government was doing the duty to bring in a bill which would legalize the illegal holdings of the Boston & Maine stock, and that bill went through the Massachusetts senate, with little or no debate, and when it reached the floor of the house the same Mr. Walker who received the previous letter that I have referred to advocated legalizing the illegal holdings of the Boston & Maine securities. We went home with no legislation, and we were hanging on the hopes and in the belief that the United States Government would eventually press this suit.

Mr. HARDWICK. Did that bill go through?

Mr. WHITE. No, sir. It was killed. I helped to kill it.

Mr. Chairman, in the year 1909 the legislature of Massachusetts was absolutely asleep to the possibility of legalizing the Boston & Maine holding. They had no more conception that the United States suit was begun than they had that the sky would fall. Then Gov. Draper came in and said give us a holding device and give it to us speedily. I remember I rushed into Gov. Draper's office and I said to him "What is this?" He said, "White, I am a business governor." The Boston & Maine stock that they have taken control of down in Connecticut where they have created a holding device is in the hands of a man named Billard, who was rated at several million. The stock of this system was secreted in another State, and the governor said, give us a holding device, and he said to me personally, "I have talked with Mr. Mellen several times on this proposal and he says that if we will give him a holding device he will bring the stock into Massachusetts and that Massachusetts may legislate upon it." I said, "You are a Republican, governor, and I am a Republican." I said, "If you do that kind of thing which has been done in this country, the Republicans will fail and you will never be reelected." He said, "I am a business governor." I said, "What restrictions are there to this company?" He said, "Mr. Mellen will not bring back the stock into Massachusetts unless when we create this holding device we give him permission to buy all the rest of this stock, bonds, and debts of the entire Boston & Maine business." That holding device went through the legislature, and nothing under heaven could stop it, with that public sentiment against it, with the unanimous decision of the boards of trade against it. They forced through this railroad holding device, and one of the arguments was that if the railroad holding device was created in Massachusetts the United States suit would be stopped by the forthcoming administration, and 12 days after the passage of that device President Taft instructed Attorney General Wickersham to stop the suit, and the suit was dropped and Massachusetts to-day stands helpless. That is why I am here to ask you Members of Congress to-day to see that this suit shall proceed in orderly fashion, or find out the facts and give us a remedy against this monopoly on land and sea.

The CHAIRMAN. Give us the dates.

Mr. WHITE. It was in the year 1909 that this holding device was created. The dismissal of the suit was about 10 days after. This is all taken from Mr. La Follette's speech.

Massachusetts was aghast. These humble organizations, such as boards of trade, were left in the hands of a complete monopoly.

Now, this Boston & Maine road runs through New Hampshire into Vermont and into Maine. There has since been established a traffic arrangement which is very close fitting with the Boston & Albany road. The new road goes south, and if you will look on the map, you will see that we have scarcely anything left in New England except a few trolleys in the eastern part which have not been taken by this monopoly.

Going to the high seas, you will find practically from Portland to New York and all intermediate points that the steamships parallel the rail lines along the seaboard.

The CHAIRMAN. And these steamship lines are owned by the railroads?

Mr. WHITE. Practically all of them, directly or indirectly. The line from New York to Bridgeport, from New Haven to New York, from New London to New York, the Joy line, the Fall River line, and the line from Boston to New York, which was the Metropolitan Line, are practically owned by the New Haven road. We have practically a complete monopoly on land and sea, and the wheels of justice down here have stopped.

I want to read to you a letter from the President of the United States to me on this subject, and my reply, but first I would like to submit a statement made by a member of the holding company. I will read it:

STATEMENT BY MR. FREDERIC C. DUMAINE BEFORE THE JOINT RAILROAD AND TRANSIT COMMISSIONS OCTOBER 26, 1909.

Mr. DUMAINE. Mr. Chairman and gentlemen, I appear here as the representative of the Boston Railroad Holding Co., to protest against the Boston & Eastern Electric Railroad Co.'s petition to tunnel Boston Harbor to connect with the north shore. The holding company, as you know, was created by last year's legislature for the purpose of controlling the railroad situation within the bounds of Massachusetts, and, incidentally, of New England, I imagine. The holding company has proceeded in an orderly way to secure a majority of the stock of the Boston & Maine Railroad, and while it has not as yet secured an absolute majority, it has secured a working majority and has already elected a board of directors, although the new management has not as yet taken its seat.

It is the intention of the holding company to see to it that every point served by the Boston & Maine is adequately served, and we therefore pray you, gentlemen, that until we have demonstrated our inability or our unwillingness to give such service, you withhold the granting of this petition. To grant it would only add a complication to an already complicated situation. That is all I have to say, and I thank you very much for allowing me an opportunity.

I have here an opinion of a former attorney general of Massachusetts, delivered in 1905, and I will put it in here.

The paper referred to is as follows:

[The New Haven was buying trolleys indiscriminately, against the law. The Boston & Maine did not, although it wanted to. Hence the trolley controversy.]

HOUSE NO. 1211.

COMMONWEALTH OF MASSACHUSETTS,
OFFICE OF THE ATTORNEY GENERAL,
Boston, April 28, 1905.

To the honorable LOUIS A. FROTHINGHAM,
Speaker of the House of Representatives.

SIR: I have the honor to acknowledge the receipt of an order of the honorable house of representatives requesting the opinion of the attorney general upon certain questions set forth therein. A copy of said order so transmitted to me is as follows:

"*Ordered*, That the attorney general be requested to transmit to the house of representatives his opinion in writing in answer to the following questions:

"1. Wherein differ the rights, privileges, and duties of the Boston & Maine Railroad Co. and the New York, New Haven & Hartford Railroad Co. in the matter of the purchase of the stocks or bonds of street-railway corporations?

"2. Your honorable predecessor, in an opinion transmitted to the senate and house of representatives March 16, 1894, relating to the New York, New Haven & Hartford Railroad Co. said: 'Acting with full knowledge of and acquiescence in the fact that the railroad company it incorporated had already received a similar charter from Connecticut, the Legislature of Massachusetts must be presumed to have conceded, by implication, the right to the consolidated corporation to have and exercise such powers as the State of Connecticut, acting upon matters within its exclusive jurisdiction, should grant to it by virtue of its sovereignty, and to reserve to itself the right to exercise exclusive control over the corporation only as to such matters as should be within its exclusive jurisdiction.' Do you concur with these views, and in that case do you or do you not think that the direct or indirect acquisition of all or part of the stock of a Massachusetts street-railway corporation by the New York, New Haven & Hartford Railroad Co. falls within the jurisdiction of Massachusetts to an extent sufficient to make it illegal in view of the following provision of law? R. L., ch. 111, sec. 77: 'No railroad corporation, unless authorized by the general court or the provisions of the following five sections, shall directly or indirectly subscribe for, take, or hold the stock or bonds of or guarantee the bonds or dividends of any other corporation,' etc. If such acquisition is in your opinion illegal, what is the penalty and how may it be enforced?

"3. R. L., ch. 111, sec. 72, says: 'If a railroad corporation which owns a railroad in this Commonwealth and is consolidated with a corporation in another State which owns a railroad therein increases its capital stock or the capital stock of such consolidated corporation, except as authorized by this chapter, without authority of the general court, or without such authority extends its line of road, or consolidates with any other corporation, or makes a stock dividend, the charter and franchise of such corporation shall be subject to forfeiture.' Your honorable predecessor, in the opinion before quoted, commenting on this provision, said: 'The law amounts to nothing more than a declaration of the policy of the State, and it does not pretend to prohibit, much less to make unlawful, the acts of a consolidated corporation done in another State, and under the lawful authority of the legislature of that State.' Assuming this to be the case as far as relates to acts of the New York, New Haven & Hartford Railroad Co. done in Connecticut under the lawful authority of the legislature of that State, what would be the bearing of the law on acts done in either Connecticut or Massachusetts for the purpose of acquiring control of a Massachusetts corporation, such, for instance, as an increase of capital stock to accomplish that purpose directly or indirectly?

"4. R. L., ch. 126, sec. 11, says in part: 'If a foreign corporation which owns or controls a majority of the capital stock of a domestic street-railway corporation issues stock, bonds, or other evidences of indebtedness based upon or secured by the property, franchise, or stock of such domestic corporation, unless such issue is authorized by the law of this Commonwealth, the supreme judicial court shall have jurisdiction in equity in its discretion to dissolve such domestic corporation. If it appears to the attorney general that such issue has been made, he shall institute proceedings for such dissolution and for the proper disposition of the assets of such corporation.' It is currently reported that the Consolidated Railway Co. of Connecticut, a foreign corporation, owns or controls a majority of the capital stock of one or more Massachusetts street-railway companies. If such majority of the capital stock were held by Massachusetts trustees for the benefit of a foreign corporation, would that be tan-

tamount to the 'control' meant by the law? Does the section establish clearly that it is the policy of Massachusetts not to permit such control unless it is authorized by law?

"Assuming such to be the policy of the Commonwealth, what, if any, change should be made in this section to carry that policy into full effect?"

The first inquiry is presented in the following form: "Wherein differ the rights, privileges, and duties of the Boston & Maine Railroad Co. and the New York, New Haven & Hartford Railroad Co. in the matter of the purchase of the stock or bonds of street-railway corporations?"

Addressing myself to the precise inquiry presented, and without assuming to modify it by my own interpretation of its intent, I must hold it to be an inquiry so broad in its scope as to involve an attempt on my part to define all the privileges and duties of the two corporations referred to in the matter of the purchase of the stock or bonds of street-railway companies wheresoever and in or under whatsoever jurisdiction the inquiry or condition might arise. To enter upon such determination would be to transcend the scope and limitations of my official investigation or review, since I could not assume to pass upon either question except upon conditions assumed to be affected by the operation of the laws of this Commonwealth, which plainly must be limited by their territorial jurisdiction. I can not presume to limit the inquiry within the bounds above suggested, and must therefore hold that the inquiry as presented lies beyond the field of my determination. I adopt this conclusion the more readily since a consideration of the further inquiries submitted to me may permit of my responding to the requirements of the honorable house of representatives in as full a measure as may be within its contemplation.

In the second inquiry it is stated that my predecessor, Attorney General Knowlton, in an opinion transmitted to the senate and house of representatives March 16, 1894, relating to the New York, New Haven & Hartford Railroad Co., said:

"Acting with full knowledge and acquiescence in the fact that the railroad company it incorporated had already received a similar charter from Connecticut, the Legislature of Massachusetts must be presumed to have conceded, by implication, the right to the consolidated corporation to have and exercise such powers as the State of Connecticut, acting upon matters within its exclusive jurisdiction, should grant to it by virtue of its sovereignty, and to reserve to itself the right to exercise exclusive control over the corporation only as to such matters as should be within its exclusive jurisdiction."

To the inquiry, "Do you concur with these views?" I have the honor to reply that I am in full concurrence with the views of my predecessor above cited.

The inquiry continues: "Assuming such concurrence of opinion, do you or do you not think that the direct or indirect acquisition of all or part of the stock of a Massachusetts street-railway corporation by the New York, New Haven & Hartford Railroad Co. falls within the jurisdiction of Massachusetts to an extent sufficient to make it illegal in view of the following provisions of law? R. L., ch. 111, sec. 77:

" 'No railroad corporation, unless authorized by the general court or by the provisions of the following five sections, shall directly or indirectly subscribe for, take, or hold the stock or bonds of or guarantee the bonds or dividends of any other corporation; and the amount of the bonds of one or more other corporations subscribed for and held by a railroad corporation, or guaranteed by it conformably to special authority of the general court or the authority given in said sections, with the amount of its own bonds issued in conformity with sections 63 and 64, shall not exceed at any time the amount of its capital stock actually paid in cash.' "

[After suit the Massachusetts Supreme Court sustained this opinion.]

This inquiry seeks my opinion whether the acquisition of stock upon the hypothesis above stated is illegal. I am of opinion that it is illegal in that it comes within the effective range of the Massachusetts statute which you cite, since it is not a matter within the exclusive jurisdiction of the State of Connecticut to authorize the purchase of stock of a Massachusetts street-railway corporation. If I am right in this conclusion, the attorney general of this Commonwealth may, by appropriate process, invoke the action of the courts looking either to the nullification or restraint of the prohibited transaction or to the forfeiture of the charter of the offending corporation in so far as the same exists by grant of the Commonwealth of Massachusetts.

In the third inquiry, Revised Laws, chapter 111, section 62, is cited:

"If a railroad corporation which owns a railroad in this Commonwealth and is consolidated with a corporation in another State which owns a railroad therein increases its capital stock or the capital stock of such consolidated corporation, except as authorized by this chapter, without authority of the general court, or without such authority extends its line or road, or consolidates with any other corporation, or makes a stock dividend, the charter and franchise of such corporation shall be subject to forfeiture."

And a portion of the opinion of my predecessor, Attorney General Knowlton, is quoted as follows:

"The law amounts to nothing more than a declaration of the policy of the State, and it does not pretend to prohibit, much less to make unlawful, the acts of a consolidated corporation done in another State, and under the lawful authority of the legislature of that State, * * *"

I understand that the statement of facts presented in the order assumes that the opinion last quoted is applicable to acts of the New York, New Haven & Hartford Railroad Co. done in Connecticut under the lawful authority of the legislature of that State; and the inquiry is made, "What would be the bearing of the law or acts done in either Connecticut or Massachusetts for the purpose of acquiring control of a Massachusetts corporation, such, for instance, as an increase of capital stock to accomplish that purpose directly or indirectly?"

I am of opinion that if such act under inquiry were done in the State of Connecticut by the corporation and by authority of the law of that State, but with the actual purpose of acquiring stock of a Massachusetts corporation in violation of the law of Massachusetts applicable to such transaction, the charter and franchise of the corporation, in so far as they existed by grant of the Legislature of Massachusetts, would thereby be made "subject to forfeiture." A fortiori would this conclusion be inevitable if the assumed act with the assumed purpose were done within the State of Massachusetts.

[The New Haven knew these opinions when they acquired the Boston & Maine stock.]

In the fourth inquiry, Revised Laws, chapter 126, section 11, is cited:

"If a foreign corporation which owns or controls a majority of the capital stock of a domestic street-railway, gaslight, or electric light corporation issues stock, bonds, or other evidences of indebtedness, based upon or secured by the property, franchise, or stock of such domestic corporation, unless such issue is authorized by the law of this Commonwealth, the supreme judicial court shall have jurisdiction in equity in its discretion to dissolve such domestic corporation. If it appears to the attorney general that such issue has been made, he shall institute proceedings for such dissolution and for the proper disposition of the assets of such corporation. The provisions of this section shall not affect the right of foreign corporations, their officers or agents, to issue stock and bonds in fulfillment of contracts existing on the 14th day of July in the year 1894."

And it is added: "It is currently reported that the Consolidated Railway Co. of Connecticut, a foreign corporation, owns or controls a majority of the capital stock of one or more Massachusetts street-railway companies."

I assume that it is intended that I shall accept, for the purpose of rendering my opinion, such statement of current report as establishing an existent fact. The inquiry then proceeds: "If such majority of the capital stock were held by Massachusetts trustees for the benefit of a foreign corporation, would that be tantamount to the control meant by the law?"

Confining my answer exactly to such assumed predicates, the accuracy of which I do not attempt to determine, I have the honor to advise the honorable house of representatives that in my opinion such a state of facts would disclose the control intended by the phrase of the statute quoted.

I am further required to answer the specific question, "Does the section last cited establish clearly that it is the policy of Massachusetts not to permit such control unless it is authorized by law?" I entertain grave doubt whether it lies within my province to assume to state what the policy of Massachusetts is or may be upon any question which properly lies within the responsible discretion and declaration of the legislative branch of the government. I may, however, say without presumption that the policy, which appears to me to be reflected by existent legislation, declares that such control is not to be permitted unless authorized by law.

A further inquiry is propounded based upon an assumption as follows: "Assuming such to be the policy of the Commonwealth, what, if any, change should be made in this section to carry that policy into full effect?" If I correctly apprehend the tenor and intent of existing legislation, its policy is manifest, though its phrase is somewhat ambiguous; and if I may be permitted to proceed upon this assumption of my own, I think there does appear to be occasion for further legislation in this regard. In order to fully answer this inquiry and to render every assistance that any opinion of mine might contribute, I perhaps ought to add that it may be difficult if not impossible to attain the apparent end contemplated by the section of the statute last quoted, through a dissolution of the domestic corporation whose stock has been acquired in violation of the law, because of the difficulty in determining the precise

import of the term "based upon" in the section cited, or the proof of a condition falling within its express intent, and legislation removing such doubt or construction or difficulty in proof may be advisable.

I have the honor to be,

Respectfully,

HERBERT PARKER, *Attorney General*.

I have another opinion of the attorney general of Massachusetts in 1903 warning the New Haven not to buy, but the warning was not considered.

Mr. HARDWICK. Is not your State law sufficient to deal with that situation?

Mr. WHITE. We thought it was, only when they get rid of a thing they put it in a superior device.

Mr. BUCKLAND. The Boston Railroad Holding Co. is another company, and turns over to the State of Massachusetts their holdings.

Mr. WHITE. I am speaking about something else.

Mr. BUCKLAND. Tell the whole truth.

Mr. FOSTER. I suggest the gentleman ought to keep still.

Mr. BUCKLAND. I do not like to have an impression go forth like that.

Mr. FOSTER. The gentleman has a right to query you.

The CHAIRMAN. If you desire to enter into a colloquy, you must get the permission of the Chair.

Mr. MURRAY. The interstate questions have not been touched upon. What the gentleman representing the New Haven road says about the Boston Railroad Holding Co. here is true, so far as Massachusetts is concerned, and I suggest that they ought to bring out the interstate features on the problem all because that is the side which the committee is interested in.

Mr. WHITE. I want to thank Mr. Murray for the suggestion. I have a copy of the suit of the United States v. the New Haven Railroad Co., but I do not want to read that long suit now because I do not want to take the committee's time. I will leave this with the committee.

The paper referred to is as follows:

HOUSE No. 1681.

COMMONWEALTH OF MASSACHUSETTS.

Decision of the supreme judicial court of Massachusetts in the case of the Attorney General v. New York, New Haven & Hartford Railroad Co., recently decided (p. 1) and the petition of the United States of America, complainant, v. New York, New Haven & Hartford Railroad Co. and others (p. 21), filed in the United States circuit court.

Knowlton, C. J.:

In the St. 1906, c. 463, Part II, s. 57, is the following provision: "A railroad corporation, unless authorized by the general court or by the provisions of the following five sections, shall not directly or indirectly subscribe for, take, or hold the stock or bonds of or guarantee the bonds or dividends of any other corporation." This is a reenactment of a statute that has been in force since 1874. Then follows a limitation upon the amount of bonds that may be subscribed for and held or guaranteed under the authority above referred to. The following five sections authorize the holding of stock in a telegraph company whose lines connect two or more places on the railroad, the guarantying of bonds of a corporation incorporated in Massachusetts for the purpose of carrying freight, passengers, and mails between any port of this Commonwealth and Europe, the taking of stock in any elevator corporation organized for the purpose of erecting and operating a grain elevator within this Commonwealth, the guarantying of bonds of connecting railroads and aiding in the construction of any branch or connecting railroad within the limits of the Commonwealth, and, for that purpose, the taking of stock in such a corporation.

The provision above quoted is an affirmative statement of the doctrine of *ultra vires*, in reference to the stock or bonds of other corporations. It carries this prohibition into a field which otherwise in individual cases and under peculiar conditions possibly might seem to be open for occupation by a railroad corporation for the promotion, incidentally, of its corporate interests. It is intended to relieve corporations and others from any doubt as to proposed investments in the stock or bonds of other corporations, and as to the financial support of other corporations by guarantying their bonds or dividends.

By excepting action under the five following sections it recognizes a policy of the Commonwealth to promote, under general laws, the investing in stock or the guarantying of bonds in certain corporations whose business is closely connected with that of the railroad corporation or incidental to it, and also the like investing or guarantying for the purpose of aiding a connecting railroad, either already constructed or about to be constructed. Besides the general law permitting investing in aid of connecting railroads under these limitations, the exception recognizes the power of the general court, by further legislation, to authorize the holding of stock or bonds of other corporations, as such holding has often been authorized by special legislation in Massachusetts and in other States.

The attorney general alleges that the defendant has violated this provision. It therefore becomes necessary to consider the statute more particularly, as well as the defendant's relations to it, and the conduct of the defendant referred to in the information. The statute refers to railroad corporations established under the authority of this Commonwealth and amenable to its laws. It does not include foreign corporations. The defendant corporation was established under an act of the Legislature of Massachusetts, and it succeeds to rights and liabilities, or has directly obtained rights and assumed liabilities under numerous legislative acts of Massachusetts. It was also organized under a law of Connecticut, where most of its property is. Many laws affecting it have been enacted in Connecticut, and it contends that, under the authority of these laws it could legally do all that the attorney general complains of.

The first question to be considered is whether by reason of the peculiarities of its organization as a corporation owning and operating a railroad extending into different States and deriving power and authority from the legislation of different States it is relieved from the prohibition of the statute. If, without considering other provisions of the charter from Massachusetts or of the charter from Connecticut, we look first at the facts that there was a consolidation of two corporations into a single corporation which was the creature of both States, operating a railroad extending into both, having the same capital stock to cover the property in both States, and electing its officers and managing its business as a single corporation, there is nothing that makes it any more a domestic corporation in one of the States than in the other. It is a foreign corporation in neither of them. It is a domestic corporation in each of them. It is a single corporation in most of its features. In other features it is two corporations acting together as one. It is a single corporation with two parents who live apart and act independently, each having absolute control in his own domain. It owes allegiance and is subject alike to each, and is dependent upon each alike for future favors. We are speaking now of a legislative consolidation or merger of two corporations, upon equal terms, which this was, and not of mere permission to a corporation of one State to enter another State and acquire property or franchises there.

The statutes relating to corporations owning lines of railroad running across the boundaries of States differ considerably in their provisions. The acts under which the defendant corporation assumed its present name were the St. 1872, c. 171, and Connecticut public acts, 1871, c. 129. These provided for a consolidation of the Hartford & New Haven Railroad Co. with the New York & New Haven Railroad Co. The New York & New Haven Railroad Co. was incorporated in 1844. (Private Laws of Connecticut, Vol. IV, p. 1020.) The Hartford & New Haven Railroad Co. was itself incorporated, in its later form, under the authority of St. 1844, c. 28, and the resolve of Connecticut passed in 1845 (Private Laws of Connecticut, Vol. IV, p. 967), whereby the Hartford & Springfield Railroad Co. of Massachusetts and the Hartford & New Haven Railroad Co. were united under the name of the New Haven, Hartford & Springfield Railroad Co. (See also Private Laws of Connecticut, Vol. IV, p. 900.) By the St. 1847, c. 244, the name of the corporation to be formed by the union was changed to the Hartford & New Haven Railroad Co., which was the name of a previously existing corporation owning a railroad extending from Hartford to New Haven, incorporated in 1833. (Private Laws of Connecticut, Vol. I, p. 1002.) There were several acts of the General Assembly of Connecticut in regard to the Hartford & Springfield Railroad Co. of Connecticut, covering the years from 1835 to 1842, but this corporation was never organized. The extension of the Hartford & New Haven Railroad Co. and its union with the Hartford & Springfield Railroad Co. were under the

resolve of 1845, already referred to. The acts relative to the Hartford & Springfield Railroad Co. of Connecticut, may be found in the private laws of Connecticut, Vol. I, p. 1006; Vol. IV, pp. 917-979, and in the Connecticut private acts, 1838, p. 47. These acts all provide for a union with a Massachusetts corporation for the construction and operation of a railroad between Hartford and Springfield.

The Hartford & Springfield Railroad Co., which was consolidated with the Hartford & New Haven Railroad Co. under the St. 1844, c. 28, was incorporated under St. 1839, c. 101, with the additional and amendatory acts, Sts. 1844, c. 24; 1845, c. 42, and 1847, c. 244.

Section 7 of the St. 1872, c. 171, under which the New York, New Haven & Hartford Railroad Co. was organized, is as follows: "Said consolidated corporation shall, at all times, be subject to the legislature of this State, as to that portion of its road in this State, as heretofore, and shall be subject to the general laws of this State as to its whole road so far as such laws may be applicable thereto."

In section 5 is this clause: "*Provided, however,* That when a special duty or liability is imposed, or any special franchise, privilege, or immunity is conferred on the corporation so merged by its charter, such duty or liability shall attach to and be discharged by, and such franchise, immunity, or privilege be enjoyed by such consolidated corporation, so far as the same is applicable to the road and franchise of said merged corporation." The St. 1852, c. 87, is an act authorizing the Hartford & New Haven Railroad Co. to increase its capital stock, and in reference to the authority of the corporation it contains this language: "Also to make any lawful contract and merge or make joint stock with any other railroad company owning a branch of said railroad or connecting line without the limits of Massachusetts in the same manner and to the same extent as may be authorized by the General Assembly of the State of Connecticut. And said company shall be subject to all the general laws of this Commonwealth to the same extent as if their railroad were wholly therein. *Provided, however,* That nothing in this act shall be interpreted to confer the power to purchase, merge, or make joint stock with the railroad of the New Haven & Northampton Co., known as the Canal Railroad." By the St. 1868, c. 355, that portion of the last act which gives authority "to make any lawful contract and merge or make joint stock with any other railroad company without the limits of this Commonwealth," was repealed, but the provision making the company subject to all the general laws of this Commonwealth has not been changed.

Section 6 of the St. 1844, c. 28, under which the union of the Hartford & Springfield Railroad Co. with the Hartford & New Haven Railroad Co. was formed, is as follows: "Said corporation, so far as their road is situated in Massachusetts, shall be subject to the general laws of this State to the same extent as if their road were wholly therein." Section 3 declares that after the said corporations become united in one corporation by an assenting vote of the stockholders "all the tolls, franchises, rights, powers, privileges, and property granted or to be granted, acquired or to be acquired, under the authority of the State of Connecticut or of this State shall be held and enjoyed by all the said stockholders in proportion to their number of shares in either or both of said corporations."

The defendant relies strongly upon this last language, and contends that under it the State of Connecticut could give the corporation franchises and powers to be exercised in Massachusetts which other corporations in Massachusetts are not permitted to exercise. We have already suggested that, apart from some such provision, when a corporation is made up of two consolidated corporations holding charters from different States in the way shown by the statutes referred to the new corporation is to be treated as a domestic corporation in each State in reference to the laws of that State relating to its conduct there. The relations of such corporations to the State, under different statutory provisions, have been considered in many cases, most of which relate to the citizenship of the corporation in reference to jurisdiction in the Federal courts. (*Nashua Railroad v. Lowell Railroad*, 136 U. S., and cases cited; *Goodwin v. New York, New Haven & Hartford Railroad Co.*, 124 Fed. Rep., 358.) In the first of these cases Mr. Justice Field said, speaking for the court: "By the general law, railroad corporations created by two or more States, though joint in their interests, in the operation of their roads, in the issue of their stock, and in the division of their profits so as practically to be a single corporation, do not lose their identity, and each one has its existence and its standing in the courts of the country only by virtue of the legislation of the State by which it is created. The union of name, of officers, of business, and of property does not change their distinctive character as separate corporations." In the latter of these two cases Judge Lowell considered the subject at length in a well reasoned opinion, with a review of the authorities. In *Muller v. Davis*, 94 U. S., 444-447, the court said of a similar consolidation: "The two companies became one, but in the State of Iowa that one was an Iowa corporation existing under the laws of

that State. The laws of Missouri had no operation in Iowa." The attorney general of Massachusetts, in an able opinion to the legislature, given in 1894, said of this defendant corporation: "It grants and acquires property as one corporation. It has no machinery by which it can act in a dual capacity. So far as respects its charter it is two corporations. As to its property, contracts, and business it is one and indivisible. In short, to quote the words of the Ohio court above cited (*Covington Bridge Co. v. Mayer*, 31 Ohio St., 317), it is, in fact, 'one corporation with the powers of two corporations.'" (I Opinions of Attorney General, 118-134.) He might have added, "with the liabilities of each of two corporations under the laws of the States, respectively, from which they received their charters." The principle was applied in *Kingsbury v. Chapin* (196 Mass., 82 N. E. Rep., 700), where the court said: "In a sense such a railroad corporation is a domestic corporation in each of the States where it is incorporated and owns and operates a railroad. We think that stock in such a corporation is 'property within the jurisdiction of the Commonwealth' under the language of our statute authorizing taxation of collateral inheritance. (R. L., c. 15, s. 1. St. 1905, c. 470. St. 1906, c. 436.) We think it is property within the jurisdiction of the Commonwealth in a constitutional sense, such as to enable the State to subject it to taxation as against a nonresident owner." But it was held that in making the assessment the stock should be valued on the basis of representing only that portion of the property of the company which was situated within the Commonwealth. See also *Moody v. Shaw*, 173 Mass., 375-378, in which it was said that "Whenever either State has an interest in distinguishing between the two franchises it has a right to do so." (See also *Railway Company v. Whitton's Administrator*, 13 Wall., 270; *Pennsylvania Railroad Co., v. St. Louis, etc., Railroad Co.*, 118 U. S., 290; *Memphis Railroad Co. v. Alabama*, 107 U. S., 581; *Goodwin v. New York, New Haven & Hartford Railroad Co.*, 124 Fed. Rep., 358.)

Each of the statutes of Massachusetts under which the defendant claims its franchises was subject to alteration, modification, or repeal, the St. 1872, c. 171, by the express provision contained in section 7 and the others by virtue of our general law on that subject, which has been in force since 1831. (R. L., c. 109, s. 3.)

How far, by reason of the peculiar nature of the corporation or by the force of express provisions in the statutes, has Massachusetts given up its right of control of this corporation or relieved it of the application of our general laws, and how far has it retained such control? As creating a corporation to build and operate a railroad in two different States, and by the language quoted from the St. 1844, c. 28, s. 2, the legislature recognized the fact that the corporation might have certain franchises, rights, powers, privileges, and property granted or acquired under the laws of only one of the two States. As to such rights and powers as pertain only to local matters, like the location of the railroad, the possession and management of real estate, the crossing of highways and other railroads, the State in which they were to be exercised would have exclusive jurisdiction. This fact is enough to show the reason for using the language relied on by the defendant. In regard to all such matters the action of only one State would be appropriate and sufficient. How far this implied authority to grant powers and franchises without the cooperation of the sister State should be held to extend it is unnecessary in this case to decide. Whether it should go so far as to include the acquisition of other railroads within the State where the power is granted, or the location and construction of new lines and extensions there, and an increase of the capital stock for such purposes, is a question upon which it is not necessary to express an opinion.

Powers and franchises of a general character, whose effect upon the corporation would not be merely local, but would work changes in its relations to private persons and to the public authority in both States alike, stand differently. It is not easy to maintain that under these statutes there is implied authority to the corporation to receive such powers from either State alone and hold them in such a way that they will have full effect in both States. If any such general powers can be so granted and held without legislative action in both States it seems plain that they are only such as are not in conflict with the laws or the declared public policy of the State which does not grant them. Massachusetts can not grant this corporation franchises to be enjoyed and exercised in Connecticut which are contrary to the laws of Connecticut; for the corporation in each State is a domestic corporation, and as such it is governed by the laws of the State of its creation in all that it does within that State. We think it plain that, in the different provisions of the statutes of Massachusetts to which we have referred the legislature intended to retain control of the consolidated corporation as a domestic corporation in everything that it might do within this Commonwealth, and that, in recognizing its right to receive franchises and acquire property in Connecticut, it did not give it an implied right to receive any franchise in Connecticut to be enjoyed or exercised in Massachusetts in violation of the laws or public policy of this Commonwealth.

If we look more particularly at the language in section 6 of St. 1844, c. 28, relied on by the defendant, we see that its real purpose was not to give to either State greater power over the interstate corporation than the State would have without it. Its object was to declare that the corporation created by the merger of the Connecticut corporation and the Massachusetts corporation should have but one capital stock, and that all the stockholders, in proportion to the number of their shares, should own the stock and all rights of property in common.

Apart from this, the ownership of stock in street railways in Massachusetts is the exercise of a right under a Massachusetts franchise. This language was not intended to give to Connecticut authority to grant to the corporation a right to do in Massachusetts that which can be done only under a Massachusetts franchise.

It follows that, in reference to subscribing for, taking, or holding stock or bonds of corporations in Massachusetts, or guaranteeing the bonds or dividends of such corporations, the defendant is restrained by the statute, like other railroad corporations organized under the laws of this State.

Upon the question whether the defendant corporation has directly or indirectly subscribed for, taken, and held the stock and bonds, and has guaranteed the bonds and dividends, and is now directly or indirectly holding the stock and bonds and guaranteeing the bonds and dividends of certain domestic corporations, as alleged in the information, the master made a summary of facts found by him as follows:

"1. The directors of the New York, New Haven & Hartford Railroad Co. voted and took action upon the question of acquiring such street railways, and for that purpose acquired the stock and control of the Worcester & Connecticut Eastern Railway Co., which afterwards became the Consolidated Railway Co., which acquired additional powers from the General Assembly of Connecticut and did acquire the stocks, bonds, and securities of the street railways named in the information, excepting of the Springfield Street Railway Co.

"2. The directors of the defendant corporation, holding the entire stock of the Consolidated Railway Co., elected its directors and corporate officers, and the directors and officers so elected were substantially the same persons who were the corporate officers and directors of the New York, New Haven & Hartford Railroad Co.

"3. The Consolidated Railway Co. acquired all the stock of the Worcester & Southbridge Street Railway Co., the Worcester & Blackstone Valley Street Railway Co., the Webster & Dudley Street Railway Co., the Worcester & Webster Street Railway Co., and a majority of the capital stock of the Berkshire Street Railway Co. As holder of such stock it controlled the election of the directors and corporate officers of these street railway companies, and such directors and officers were substantially the same persons who were directors and officers of both the Consolidated Railway Co. and of the New York, New Haven & Hartford Railroad Co.

"4. The Consolidated Railway Co. did not directly acquire a majority of the stock of the Springfield Street Railway Co., but it passed votes, acted and entered into agreements for the organization of the Springfield Railway Cos., and made an agreement with that association, guaranteeing certain dividends on its preferred stock and guaranteeing a certain price upon the preferred stock in a certain event, and the Springfield Railway Cos. did acquire a majority of the stock and securities of the Springfield Street Railway Co.

"5. The officers and trustees of the Springfield Railway Cos. are also persons who are directors and corporate officers of both the New York, New Haven & Hartford Railroad Co. and of the Consolidated Railway Co.

"6. The Springfield Railway Cos., by its holding of stock of the Springfield Street Railway Co., elects its directors and corporate officers, a majority of whom are directors and officers of the New York, New Haven & Hartford Railroad Co. and of the Consolidated Railway Co.

"7. The Consolidated Railway Co. has continued to hold the entire capital stock of the Worcester & Webster Street Railway Co. and of the Webster & Dudley Street Railway Co.

"8. Upon June 25, 1906, the voluntary association known as the New England Investment & Security Co. was formed, and the Consolidated Railway Co. sold and conveyed to it all of the stocks, bonds, and securities which it held in the Worcester & Southbridge Street Railway Co., the Worcester & Blackstone Valley Street Railway Co., the Berkshire Street Railway Co., and the Springfield Street Railway Co. (102 shares).

"9. The plan of organization of the New England Investment & Security Co. was reported to and approved by the directors of the New York, New Haven & Hartford Railroad Co., and an agreement as to the guaranty of its stock was made between the New York, New Haven & Hartford Railroad Co., the Consolidated Co., and the New England Investment & Security Co., and the Consolidated Railway Co. was a party to the agreement and declaration of trust.

"10. Most of the trustees and officers of the New England Investment & Security Co. are persons who are directors and officers of the New York, New Haven & Hartford Railroad Co. and of the Consolidated Railway Co."

It is important to determine what is meant by the words, "shall not directly or indirectly subscribe for, take, or hold the stock or bonds," etc. Doubtless one purpose of the provision was to protect minority stockholders from the risk of detrimental acts of a corporation *ultra vires*. But a more important purpose was to prevent a railroad corporation from obtaining, without legislative permission, the control of another corporation so situated that competition between the two might conserve the interests of the public. While combinations of connecting railroads have been encouraged by many enactments, our laws are intended to prevent the consolidation of railroad corporations which are natural competitors for the same business, except when authority therefor is obtained from the legislature. The words "subscribe for, take, or hold" are intended to include legal ownership of every kind. The word "indirectly" covers other modes of holding than by taking or holding the legal title. The words together cover every kind of proprietary interest in the stock or bonds referred to. It is immaterial how or where the legal title is held directly, if indirectly the railroad corporation is the equitable or beneficial owner of it. What the legislature was seeking to prevent was influence in the management of the subordinate corporation by the other corporation, however exercised, and whether extending to absolute control or falling short of it. With this in view, language was used in the statute to include every kind of beneficial ownership, however indirectly held.

The master's summary of facts and the other findings that appear in the report show how completely the defendant controls the street railways in question. The capital stock of all of them but the Springfield Street Railway Co. was bought and held by the Consolidated Railway Co., all of which stock is held by the defendant, and all of whose directors are the defendant's directors. If we assume that this corporation was legally organized and is legally maintained, so as to have a separate corporate existence, it is in reality a piece of legal machinery owned and operated by the defendant. Through this the defendant acquires and owns and uses property with as complete control as it has over its locomotive engines. If it does this indirectly, it does it as effectively as if the ownership were direct. Through the direct purchase and ownership of the street railway corporations, by its creature, the Consolidated Railway Co., the defendant transgressed the law as to all the street railway companies mentioned in the information, except the Springfield Street Railway Co., and is still transgressing in the same way as to the Worcester & Webster Railway Co. and the Webster & Dudley Street Railway Co., whose ownership is retained in the same form. Some of these street railway companies have been dealt with directly by the defendant, at different times, by votes of its directors while acting in that capacity. The defendant's president is the president of the Consolidated Railway Co. and of all these street railway companies, and he receives no compensation for the performance of these official duties, except his salary as president of the defendant corporation.

The stock of the Springfield Street Railway Co. was acquired through action of the Consolidated Railway Co., whose directors voted that it "should be acquired by this company, and that the plan for payment of the same outlined by the president be approved, namely, the establishment of a trust covering the issue of \$3,000,000 guaranteed trust certificates, and the sum of \$1,500,000 of 4 per cent debentures of this company." Here was the origin of the Springfield Railway Cos., which was established by the Consolidated Railway Co. as a part of a scheme for holding and controlling the stock of the Springfield Street Railway Co. This is a voluntary association, consisting of a board of trustees, of whom all but one are directors of the Consolidated Railway Co. and of the defendant corporation, who are designated as trustees in the declaration of trust, together with the members of the firm of Lee, Higginson & Co., of Boston, bankers, who are called subscribers. Under the instrument the trustees assume no personal financial liability and have no beneficial ownership, although they are the holders of the legal title to all the property belonging to the association and are the managers of it. Lee, Higginson & Co. are parties for the purpose of disposing of preferred shares to be issued by the association, and managing other matters of finance. As a part of the arrangement the Consolidated Railway Co. entered into a contract with Lee, Higginson & Co. which, after the formal part, began with a recital as follows: "Whereas the Consolidated Railway Co. desires to acquire the whole, or at least a majority, of the capital stock of the Springfield Street Railway Co., and desires Lee, Higginson & Co. to offer the stockholders of said company \$225 in cash per share or \$75 in cash per share and \$150 in preferred stock of the Springfield Railway Cos. issued under a declaration of trust dated March 15, 1905," etc.

It was then agreed that the Consolidated Railway Co. should sell its 4 per cent 50-year debentures to the amount of \$1,500,000 and Lee, Higginson & Co. should buy

not exceeding that amount of these debentures at a price named, and should underwrite not exceeding \$2,937,600 in amount of the preferred shares of the Springfield Railway Cos. at \$100 per share. Then followed this recital, "which sale of bonds, with cash to be paid by the Consolidated Railway Co., and underwriting, will furnish the funds necessary for the purchase of said street railway stock at the price agreed upon," etc. It was then agreed that the Consolidated Railway Co. should forthwith issue, sell, and deliver to Lee, Higginson & Co. the debentures, and that there should be "formed a holding trust to be called the Springfield Railway Cos. * * * to acquire and hold at least a majority of the capital stock of the Springfield Street Railway Co., which said trust shall issue at this time not exceeding \$2,937,600 of preferred shares, which shall be entitled to cumulative dividends at the rate of 4 per cent per annum, payable," etc. * * * "and in case of liquidation, payment of the property of said preferred shares at the rate of \$105 per share to be guaranteed by the Consolidated Railway Co., and to be subject to call on any dividend date at the rate of \$105 per share, as provided in the agreement of said Consolidated Railway Co. with the Springfield Railway Cos.," etc.

There was a provision that Lee, Higginson & Co. should underwrite at par so many of the preferred shares as should be necessary to acquire the whole, or at least a majority, of the stock of the Springfield Street Railway Co. at the price stated. There was then a provision for an underwriting commission to be given to Lee, Higginson & Co. in full payment for their services. The expenses of forming the trust and of carrying out the terms of the agreement were to be paid by the Consolidated Railway Co. Under this arrangement the stock of the Springfield Street Railway Co. was acquired and turned over to the association, which consisted of the trustees, with no financial interest, and the Consolidated Railway Co., which was then the beneficial owner of all the property. The common shares in the Springfield Railway Cos. to the amount of \$5,000,000 were to be delivered to the Consolidated Railway Co. as soon as a majority of the stock of the Springfield Street Railway Co. should be acquired. The proceeds of all the preferred shares were to be accounted for to the Consolidated Railway Co. by Lee, Higginson & Co. The trust, including the accompanying contracts, was simply a machine constructed for the management of the property and the business in the interest of the Consolidated Railway Co., which was the interest of the defendant corporation. As to sales made by Lee, Higginson & Co. to third persons, and as to the underwriting of Lee, Higginson & Co., if that be deemed a purchase by them of the preferred shares, the Consolidated Railway Co. is still indirectly the owner of the shares, or at least of an interest in them.

The Springfield Railway Cos. is not a corporation, although the parties, by their contract, sought to obtain many of the advantages of a corporation without its liabilities. (See *Hussey v. Arnold*, 182 Mass., 203.) All who have any proprietary interest in it have rights of property as individual owners, subject to such restraints upon the management and use of it as are legally imposed by the contracts under which it is held. They are equitable tenants in common. By the terms of the agreement the association must be wound up and liquidated at the end of 20 years and 11 months. If there are profits from the enterprise the Consolidated Railway Co. will be entitled to the whole of them. It held all the common shares, although it has since turned them over to the New England Investment & Security Co. The other holders of the preferred shares can receive only \$105 per share as principal, with interest at 4 per cent. Any proceeds beyond that amount will go to the Consolidated Railway Co. If there is not enough in the property to pay that, the Consolidated Railway Co. must make up the deficiency, for it guaranteed this amount to all of the preferred shares on liquidation. It can at any time wind up the association, for by its contract it has retained a right to call and redeem all the preferred shares on any dividend date at \$105 per share.

The case is like that of an association that issues mortgage bonds to be redeemed at \$105 at maturity, with a right to call and redeem them at any earlier time at the same rate. In such a case the bondholders have merely made a loan. The real beneficial owners of the property are those who have agreed to pay the loan whereby the property will be redeemed. The transfer of certificates to purchasers of preferred shares is in the nature of a pledge. It seems plain that the Consolidated Railway Co. is indirectly a holder and owner of everything belonging to the Springfield Railway Cos., subject to its relations to the New England Investment & Security Co., to which we shall refer hereafter. As the defendant owns all the stock of the Consolidated Railway Co., it is indirectly the holder and owner of the 19,253 preferred shares of the Springfield Street Railway Co. in the hands of the trustees of the Springfield Railway Cos., as well as of the right to redeem the preferred shares in the hands of the purchasers.

The New England Investment & Security Co. is a voluntary association similar to the Springfield Railway Cos., although in terms it is of broader scope as to the property that may be owned and the business that may be transacted. The declaration of trust by which it was created was signed by seven of the directors of the Consolidated Railway Co. and of the defendant corporation, who were designated as the trustees, and by the Consolidated Railway Co., and by a number of the firm of Mackay & Co., bankers, who contracted to sell the preferred shares, and by an assistant of the president of the numerous corporations and the associations, who are designated together as subscribers. The trustees have no financial interest and are under no financial liability in regard to the property or business, but they hold the legal title and act as managers, under the name of the New England Investment & Security Co. They issued preferred shares and common shares which represent the ownership in the property and business of the association. The preferred shares are guaranteed by the Consolidated Railway Co., principal and interest, as the shares of the Springfield Railway Cos. are, and are subject to call in the same way, and are to be redeemed at \$105 per share when called, or when the affairs of the association are liquidated. This guaranty was made at the request of the defendant corporation, which in turn guaranteed the Consolidated Railway Co. against loss from its guaranty.

The Consolidated Railway Co. sold to the New England Investment & Security Co. all the stocks and bonds which it held of the Worcester & Southbridge Street Railway Co., the Worcester & Blackstone Valley Street Railway Co., the Worcester Railway & Investment Co., the Springfield Street Railway Co. and the Springfield Railway Cos., for the sum of \$10,000,000, which was paid by the promissory note of the New England Investment & Security Co., and it guaranteed the preferred shares of this company to the amount of \$10,000,000, at the request of the defendant corporation. The contract under which the shares were issued and the guaranty was made, was signed only by the New England Investment & Security Co., the Consolidated Railway Co. and the New York, New Haven & Hartford Railroad Co. In the last analysis, in view of the ownership of one corporation by the other, the only party that had any interest in the matters covered by the contract was the defendant corporation. There was a contract with Mackay & Co. for the sale of these shares, but they were all held by Mackay & Co. for the benefit of the Consolidated Railway Co. At the time of the hearing there were 66,137 preferred shares held by Mackay & Co. and owned by the railway company. So far as relates to the questions with which we are now concerned, there is no substantial difference between the two voluntary associations. In each the equitable ownership is in the Consolidated Railway Co. which is entitled ultimately to the profits from the management, if there are profits, on liquidation, and which must make good the loss to the preferred shareholders if there is a deficiency.

From the findings and evidence in the very voluminous report of the master, and notably from the testimony of Mr. Mellen, the president of the voluntary associations and the corporations, and of Harmer, the secretary and comptroller of the New England Investment & Security Co., it is plain that all the street railway companies mentioned in the information are indirectly held and controlled and managed in the interest of the defendant as absolutely and completely as it holds and manages its line of railroad between Springfield and New York. The allegations of the attorney general in this particular are fully sustained by the evidence.

The attorney general contends that the defendant is directly or indirectly guarantying the bonds and dividends of these corporations. It is indirectly guarantying the dividends on the preferred shares of the two associations—of the first association through the Consolidated Railway Co. which it owns and controls, and of the second association in the same way, with an additional express guaranty to the Consolidated Railway Co. for its protection from loss by its guaranty. These shares represent the ownership of the stock of these street railways. The guaranty is not of the dividends to be declared on the stock of the street railway corporations themselves, but only of the dividends to be declared on the shares of the holding company, issued to represent the stock in the corporations. Whether this should be deemed an indirect guaranty of the dividends of the corporations, we do not deem it necessary at this time to determine, for it seems that if the defendant ceases to hold directly or indirectly any proprietary interest in the stock of the street railway corporations, this will involve a termination of its relations as guarantor of these dividends.

The defendant's counsel has referred in his argument to returns of different railroad companies to the railroad commissioners at different times, showing a holding of stocks or bonds of other corporations. These were not in evidence, and the circumstances of the corporate action and the reasons for it do not appear. It is fair to assume, as the defendant's counsel did assume in his argument, that these holdings were for the most part, if not altogether, under the authority of law. They show nothing more than that it has been a part of the policy of the Commonwealth to permit close relations between connecting railroads. Even if it should appear that some corporation had openly

acted ultra vires without prosecution by the officers of the Commonwealth, it would not affect the construction of this statute or the right of the Commonwealth to enforce it. Action of a corporation ultra vires, where no great harm is done, often goes without rebuke.

The returns of the defendant are referred to, which show the holding of stocks in railroad companies in other States, and lately, of certain railroad companies in this Commonwealth. We may assume that most, if not all of these, were stocks of connecting railroads, or were held under authority of special legislation in this State. Whether any of these holdings were in violation of the public policy of Massachusetts does not distinctly appear. Nothing is shown like the facts in the present case.

There was no unreasonable delay on the part of the public authorities in directing the attention of the defendant to the statute as soon as its conduct in Massachusetts in reference to these corporations became publicly known. The defense of laches can not prevail.

Directly or indirectly subscribing for, taking and holding or guarantying the bonds and dividends of another corporation in this Commonwealth, by a railroad corporation organized under our laws, is the exercise of that which would be a franchise if authority to do it had been granted by the legislature. It is within the provision of the St. 1906, c. 372, and may be restrained by injunction under this statute. (*Attorney General v. New York, New Haven & Hartford Railroad Co.*, 197 Mass.; 83 N. E. Rep. 408.)

Decree for the informant.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

The United States of America, complainant, v. The New York, New Haven & Hartford Railroad Co., Boston & Maine Railroad, The Consolidated Railway Co., and The Providence Securities Co., defendants. In Equity, No. --.

PETITION.

To the honorable the judges of the Circuit Court of the United States of America for the District of Massachusetts, sitting in equity:

Your petitioner, the United States of America, by Asa P. French, its attorney for the District of Massachusetts, acting under the direction of its attorney general, brings this its petition against the New York, New Haven & Hartford Railroad Co., a corporation created and existing under the laws of Connecticut, of Massachusetts, and of Rhode Island, and having its principal office at New Haven, in the State of Connecticut; the Boston & Maine Railroad, a corporation created and existing under the laws of Maine, of New Hampshire, and of Massachusetts, and having its principal office at Boston, in the last-named State; the Consolidated Railway Co., a corporation created and existing under the laws of Connecticut, and having its principal office at New Haven, in that State; and the Providence Securities Co., a corporation created and existing under the laws of Connecticut, and having its principal office at New Haven, in that State.

And, on information and belief, your petitioner complains and says:

I.

That the defendants, the New York, New Haven & Hartford Railroad Co., hereinafter called the New Haven Co., and the Boston & Maine Railroad were, at the times hereinafter mentioned, and now are, common carriers engaged in interstate transportation of freight and passengers by steam railroad; that the defendant, the Consolidated Railway Co., was, at the times hereinafter mentioned, a common carrier engaged in interstate transportation of freight and passengers by electric railway; that the defendant, the Providence Securities Co., is a holding corporation, holding all the capital stock of the Rhode Island Co., a corporation operating electric railways engaged in interstate transportation of freight and passengers.

II.

HISTORY OF GROWTH AND CONSOLIDATION OF STEAM RAILROADS IN NEW ENGLAND.

That in the year 1872, when the New Haven Co. was organized, there existed a large number of independent steam railroads in the various New England States, some of which operated wholly within a single State, while others were interstate carriers; that since that year a number of steam railroad corporations have come into

existence in those States, some of which operated wholly as intrastate while others operated as interstate carriers; that between the years 1872 and 1904 a consolidation of these various independent steam railroad companies gradually took place, so that by the close of the latter year the control of the steam railroads in those States of New England in which the defendant railroad companies operate, and between those States and the rest of the United States, had become vested substantially in the following companies, to wit: The New York, New Haven & Hartford Railroad Co., the Boston & Maine Railroad, and the Boston & Albany Railroad; that each of these three companies, up to and including the year 1904, had, in the main, chosen its natural field for expansion. The New Haven Co. confined its acquisitions and extensions largely to lines operating in the States of Connecticut, Rhode Island, and southern and southeastern Massachusetts, a territory hereinafter termed "Southern New England;" the Boston & Maine Railroad confined its acquisitions and extensions largely to lines operating in the States of Maine, New Hampshire, Vermont, and northern and western Massachusetts; and the Boston & Albany Railroad to a more or less otherwise unoccupied field, principally in central Massachusetts, extending from Boston westward through that State into the State of New York. The miles of railroad operated in 1903 by these three companies were, approximately:

	Miles.
The New Haven Co.....	2, 037. 12
Boston & Maine Railroad.....	2, 342. 94
Boston & Albany Railroad.....	304. 09

That so far as the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut are concerned, these three railroad systems were, at the times hereinafter mentioned, and now are, practically the only means of transportation by steam railroad between and among these States, and between these States and the rest of the United States.

III.

HISTORY OF THE GROWTH OF ELECTRIC URBAN AND INTERURBAN RAILWAY LINES IN SOUTHERN NEW ENGLAND.

That beginning with the early nineties, electricity began to be applied as a motive power to urban and interurban railways and, owing to the proximity to each other of the numerous cities and towns of Massachusetts, Rhode Island, and Connecticut, projecting companies found a fertile field in these States; that the result was that, prior to the year 1904, a large number of such railway companies had come into existence, and electric urban and interurban lines overran these States, so that practically all the cities and towns in them had become connected by this means of transportation; that in the building of these lines the various independent companies so constructed them that when taken all together they formed a complete system by means of which it became, was, and is possible to travel on such electric urban and interurban lines from New York City to Boston, and to almost any other place or places in Massachusetts, Rhode Island, and Connecticut, changing cars, of course, at many intersecting and connecting places; that these lines to a great extent paralleled the New Haven Co.'s lines and served substantially the same territory, as more clearly appears from the map hereto attached, marked, "Exhibit B," and hereby made a part of this bill of complaint.

IV.

COMPETITIVE NATURE OF THE NEW HAVEN CO. AND THE BOSTON & MAINE RAILROAD.

That the New Haven Co. and the Boston & Maine Railroad at and prior to the doing of the acts hereinafter complained of, owned or controlled and operated two separate, independent lines of steam railroad, as stated in Paragraph II hereof, each company, for the most part, operating in a distinct field, the main line of the one extending from New York to Boston, and that of the other from Boston to Portland, Me.; that notwithstanding such fact each of said companies had branch lines running east and west through the State of Massachusetts into New York, touching and serving in common a large number of flourishing cities and towns in Massachusetts, among others Boston, Lowell, Fitchburg, Marlboro, Worcester, Springfield, Holyoke, Northampton, Clinton, Concord Junction, Shelburne Falls, South Sudbury, Turners Falls, Sterling Junction, Deerfield, South Deerfield, Easthampton, Leominster, Berlin, Chelmsford, Acton, North Acton, and Bolton, and that each of said companies actively competed with each other for the trade and commerce carried on between said State of Massachusetts and the territory adjacent thereto and points west of the

Hudson River, where each road makes its through connections, thus furnishing the public with two naturally competing lines for carrying on trade and commerce among the several States of the United States; that at the times hereinafter mentioned these two railroad systems were, with the exception of the Boston & Albany Railroad, substantially the only lines of steam railroad connecting southern New England (in which are located Boston and other large and thriving manufacturing cities, the centers of the prosperity of this territory) with the rest of the United States, and said lines were then engaged in active competition with one another for freight and passenger business among the several States of the United States.

V.

COMPETITIVE NATURE OF THE NEW HAVEN CO. AND THE ELECTRIC URBAN AND INTERURBAN RAILWAY LINES.

That the New Haven Co. and the electric urban and interurban railway systems of Massachusetts, Rhode Island, and Connecticut, and a portion of New York, at and prior to the doing of the acts hereinafter complained of, operated separate, independent parallel lines for the transportation of persons and property between and among the States of Massachusetts, Rhode Island, Connecticut, and New York; that while, as stated in Paragraph VI hereof, competition by steam railroad with the New Haven Co. in this territory had been effectually stifled prior to the year 1904, yet the application of electricity to street railways and the rapid expansion of such railways in this territory furnished a new means of competition, excited the alarm of the New Haven Co., and called from it and its managing officers repeated declarations as to the competitive nature of this new transportation service; that as early as 1893 Charles P. Clark, president of the New Haven Co., in his annual report to the stockholders for that year said:

"The rapid application of electricity as a motive power upon the highways naturally brings the attention of railroad managers to the competition thereby created with existing steam roads."

And again, in his report for 1894, he reiterated the feeling then existing in the following language:

"The construction of electric railroads in the neighborhood of our property continues throughout all its territory. Wherever they seriously reduce the revenue of this property we shall be compelled to lessen local service in a corresponding degree, as pointed out in our last annual report."

That thus, while competition in transportation by steam railroad between the States of Massachusetts, Rhode Island, Connecticut, and a portion of New York no longer existed by the year 1904, the public, through this new transportation service, had been furnished with two parallel and competing lines for the transportation of passengers and freight between and among the States of Massachusetts, Rhode Island, Connecticut, and New York.

VI.

HISTORY OF THE NEW HAVEN CO. UP TO THE YEAR 1904.

That the defendant, the New Haven Co., was organized in 1872 by the consolidation of the New York & New Haven Railroad with the Hartford & New Haven Railroad; that by virtue of this consolidation the New Haven Co., upon its organization, operated an interstate railroad, the main line of which extended from Williams Bridge in New York, through Connecticut, to Springfield in Massachusetts, its lines, main and branch, aggregating at this time only 190.75 miles in length; that by the year 1904, by reason of its various acquisitions, the main line of the New Haven Co. reached from New York City to Boston, and its branch lines completely overran the States of Connecticut and Rhode Island and a considerable part of Massachusetts, principally the southern and southeastern portions of that State; that it embraced all the miles of steam railroad in these States, except 58 in Connecticut, owned by the New London Northern Railroad Co. and the South Manchester Railroad Co.; 25 in Rhode Island, owned partly by the Newport & Wickford Railroad & Steamboat Co., partly by the Narragansett Pier Railroad Co., and partly by the Mashassuck Valley Railroad Co.; and those in Massachusetts owned by the Boston & Maine Railroad, the Boston & Albany Railroad, the New London Northern Railroad Co., and six short local lines; that the New Haven Co., therefore, in or about the year 1904, operated all the miles of steam railroad in the territory comprising the States of Massachusetts, Rhode Island, and Connecticut, except those in the control of the Boston & Maine Railroad, Boston & Albany Railroad, and the various small independent companies referred to above; that it no

longer had any interstate rival by steam railroad between Massachusetts, Rhode Island, and Connecticut, and absolutely controlled the transportation by steam railroad between southern New England and New York City and the South; that it had, in other words, prior to 1904, acquired a practical monopoly of the steam-railroad facilities among and between said New England States and between them and New York City and the South, and that this result has been brought about in a large measure, at least, by the acquisition or control of its former interstate competitors in this territory.

VII.

THE UNLAWFUL COMBINATION, MONOPOLY, AND ATTEMPT TO MONOPOLIZE.

That the defendant, the New Haven Co., having, prior to the year 1904, thus acquired practically all the steam-railroad facilities for the transportation of passengers and freight between southern and southeastern Massachusetts, Rhode Island, and Connecticut, and between those States and New York City and the South, and completely suppressed all interstate competition in transportation by steam railroad in this territory, which had theretofore existed, and having, moreover, obtained control of certain electric railways in the States of Connecticut and Massachusetts more specifically hereinafter mentioned, did, thereafter, in violation of sections 1 and 2 of the act of July 2, 1890, entitled, "An act to protect trade and commerce against unlawful restraints and monopolies," knowingly, unlawfully, and wrongfully combine, monopolize, and attempt to monopolize, in the manner hereinafter more specifically described, certain other steam railroads and electric railways then and there engaged in the transportation of passengers and merchandise among the several States of New England and between said States and the several States of the Union, each and all of which other steam railroads and electric railways were then and there engaged in competing, and some of which were susceptible of being made competitors, in the transportation of trade and commerce with the said the New Haven Co.; and the said the New Haven Co. did then and there knowingly, unlawfully, and wrongfully, in the manner hereinafter more specifically described, suppress, and attempt to suppress, all competition between itself and such other steam railroads and electric railways, hereinafter more specifically mentioned, in the transportation of passengers and merchandise among the several States of New England and between said States and the several other States of the Union; and the said the New Haven Co. thereafter, in the prosecution of such combination, monopoly, and attempt to monopolize, and in order to effect the same, did unite and bring under one common management and control substantially all methods of transportation by land between the several States of New England and between said States and the several other States of the Union and did monopolize and attempt to monopolize such transportation contrary to the act of Congress hereinbefore referred to; and your petitioner alleges that the defendant, the New Haven Co., thereby, and by virtue of the acts hereinafter set forth, has become and is now a combination in restraint of trade or commerce among the several States, and has monopolized and attempted to monopolize a part of the trade or commerce among the several States contrary to and in violation of said act of Congress of July 2, 1890.

VIII.

STEPS IN THE SUPPRESSION OF COMPETITION BETWEEN THE NEW HAVEN CO. AND THE ELECTRIC URBAN AND INTERURBAN RAILWAY SYSTEMS IN CONNECTICUT.

That in pursuance of the unlawful combination, monopoly, and attempt to monopolize aforesaid, in July, 1901, the board of directors of the defendant, the New Haven Co., voted:

"That the committee heretofore appointed in relation to the People's Tramway Co. and the Southbridge branch, consisting of the president and Messrs. Taft and Brush, is continued to consider and act with full power as to plans for uniting into one system operated by a corporation to be controlled by this company lines of electric railway constructed and about to be constructed in the vicinity of the Norwich division, and for having the Southbridge branch also operated as an electrical railway by the same corporation under a proper lease or operating contract, or approve such acts or agreements by officers of this company and by other corporations for the carrying out of plans of said nature as said committee may deem beneficial to this company."

That in October, 1903, said committee above referred to reported to the board of directors of the defendant, the New Haven Co., that—

"The proposition to acquire an interest in the People's Tramway Co. was approved by Messrs. Robinson, Taft, and the president prior to Mr. Robinson's death, and

thereafter the question of connecting this system with two roads in Massachusetts and making a through line from Norwich to Worcester was further considered and approved by the committee. These extensions resulted in the formation of the corporation known as the Worcester & Connecticut Eastern Railway, with power to build to Norwich, but with a completed line extending from Central Village to Worcester and a spur from Central Village to Moosup, and from Killingly to Chestnut Hill, connecting there with the Providence & Danielson Electric Railway, running between Providence and Danielson. This company advanced, from time to time, under the direction of the committee, certain funds for the construction and extension of the lines, and bonds were issued on the various lines so extended and connected, with the final result that the money advanced by this company has been repaid to it except the sum of \$15,000, which the company has invested in the property. In return for this investment the company has received and now holds a majority of the stock of the Worcester and Connecticut Eastern Road, to wit, 2,501 shares, which gives this company control of the property."

That the Worcester & Connecticut Eastern Railway Co. was originally incorporated in April, 1901, by an act of the Connecticut Legislature as the Thompson Tramway Co. for the purpose of transporting "both persons and property as a common carrier upon highways and elsewhere in the town of Thompson;" that on January 24, 1902, its corporate name was changed by the superior court of New Haven County, Conn., to the Worcester & Connecticut Eastern Railway Co., and the rights, properties, and franchises then acquired and merged into it through the procurement of the defendant, the New Haven Co., were those of the People's Tramway Co. and the Danielson & Norwich Street Railway Co., corporations organized under the laws of Connecticut to operate electric railways; that in May, 1903, by an act of the Connecticut Legislature, power was conferred upon the said the Worcester & Connecticut Eastern Railway Co. to "exercise all the rights and franchises of each of said two corporations;" that by section 7 of the act incorporating the Danielson & Norwich Street Railway Co., power was given to that company to "purchase, hold, and enjoy stock, bonds, properties, leases, and franchises of any other corporation;" to "issue its bonds and full-paid stock at its par value;" to "merge, consolidate, and make common stock with other corporation;" whereby said consolidated company, the Worcester & Connecticut Eastern Railway Co., thereupon became invested with the powers of a holding corporation; that in September, 1902, said company, through leases of the Webster & Dudley and the Worcester & Webster Street Railway Cos. corporations organized under the laws of Massachusetts and operating electric railways in that State, became an interstate trolley system running and operating from Worcester, Mass., through Webster, Mass., to Central Village, Conn., a distance of approximately 40 miles, and paralleling the Norwich division of the defendant railroad, the New Haven Co.; that in May, 1904, the defendant, the New Haven Co., acquired the entire capital stock of the said the Worcester & Connecticut Eastern Railway Co., and elected its officers and directors (who were substantially the same persons who were officers and directors of the New Haven Co.), and thereafter controlled absolutely its affairs as though the two were one and the same corporation.

That at a meeting held on May 14, 1904, of the directors of the defendant, the New Haven Co., the following resolution was adopted:

"*Resolved*. That the said committee on electrical lines of the standing committee, consisting of Directors Brooker, Brush, and Cheney, with the Directors Milner, Barney, Hall, Bishop, Warner, and Osborne, be appointed special committee, with full power to consider and carry into effect the consolidation into one corporation of the various electrical lines controlled by this company."

That as a result of the action of this committee, and in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, charged in Paragraph VII hereof, the name of the said the Worcester & Connecticut Eastern Railway Co., through the procurement of the defendant—the New Haven Co., which, as aforesaid, owned and voted its entire capital stock of 5,000 shares and elected its officers and directors—was changed by decree of the superior court of New Haven County, Conn., on May 18, 1904, to the Consolidated Railway Co., and its capital stock increased from \$500,000 to \$10,000,000, being 100,000 shares of \$100 each, for the purpose of taking over and consolidating into one company the various electrical lines of the said defendant, the New Haven Co., theretofore acquired, which said electrical lines were thereupon consolidated under the name of the said the Consolidated Railway Co. in the manner following and upon the dates, to wit:

	Shares.
June 30, 1904. The Consolidated Railway Co. issued and exchanged for the entire capital stock of 5,000 shares of the Worcester & Connecticut Eastern Railway Co., its predecessor in title, an equal number of its own shares, viz.....	5,000

June 30, 1904. The Consolidated Railway Co. issued and exchanged for the capital stock of the Fair Haven & Westville Railroad Co. and Winchester Avenue Railroad Co., and the Meriden Electric Railroad Co., which the New Haven Co. had previously acquired.....	Shares. : 92,000
October 1, 1904. The Consolidated Railway Co. issued and exchanged for the capital stock of the Stamford Street Railway Co., which the New Haven Co. had previously acquired.....	3,000
	<hr/> 100,000

That in the manner aforesaid all of the electrical lines which the defendant, the New Haven Co., had acquired prior to May, 1904, were thus acquired, dominated, and controlled by one subsidiary holding company, all of whose capital stock the New Haven Co. owned and voted, and whose officers and directors it elected (nearly all of whom were officers or directors of the New Haven Co.), and whose affairs and acquisitions hereinafter set forth and described it controlled and dominated.

That thereafter, from time to time, and in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in paragraph VII hereof, the defendant, the New Haven Co., through the instrumentality of this subsidiary company, the Consolidated Railway Co., acquired through the issuance of debentures of the latter company (the principal and interest of a large part of which it guaranteed) the following companies operating electric lines in the State of Connecticut in competition with the defendant, the New Haven Co., and which were merged with its said subsidiary, the Consolidated Railway Co., on the dates following, to wit:

- 1904. May 4: The Wallingford Tramway Co.
- 1904. September 29: The Norwich Street Railway Co.
- 1904. September 29: Montville Street Railway Co.
- 1904. October 22: New London Street Railway Co.
- 1904. November 28: The Middletown Street Railway Co.
- 1905. September 19: Hartford Street Railway Co.
- 1905. September 19: The East Hartford & Glastonbury Street Railway Co.
- 1905. September 19: The Greenwich Tramway Co.
- 1905. September 19: The Branford Lighting & Water Co.
- 1905. September 19: The Suffield Street Railway Co.
- 1905. December 6: Willimantic Traction Co.
- 1906. March 13: The Hartford & Middletown Street Railway Co.
- 1906. March 26: The Hartford, Manchester & Rockville Tramway Co.
- 1907. April 28: The Waterbury & Pomperaug Valley Street Railway Co.
- 1907. June 28: The Torrington & Winchester Street Railway Co.¹
- 1907. June 28: The Meriden, Southington & Compounce Tramway Co.¹

That by virtue of the acquisition of the companies as aforesaid, and of a lease for 999 years from August 1, 1906, of the Connecticut Railway & Lighting Co., a corporation organized under the laws of Connecticut and operating approximately 150 miles of electric railway in that State, the defendant, the New Haven Co., had, prior to May 31, 1907, brought under its ownership and control approximately 500 out of 600 miles of electric railway then in operation in the State of Connecticut.

IX.

STEPS IN THE SUPPRESSION OF COMPETITION BETWEEN THE NEW HAVEN CO. AND THE ELECTRIC URBAN AND INTERURBAN RAILWAY SYSTEM OF MASSACHUSETTS.

That in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in paragraph VII hereof, the Consolidated Railway Co., acting for and in behalf of the defendant, the New Haven Co., between May, 1904, and May, 1907, through the purchase of a controlling stock interest and otherwise, brought under its control the following-named companies operating electric railway lines centering about and paralleling the said defendant's steam railroad in Massachusetts, to wit: The Worcester Railways & Investment Co.; the Worcester & Southbridge Street Railway Co.; the Worcester & Blackstone Valley Street Railway Co.; Webster & Dudley Street Railway Co.; Worcester & Webster Street Railway Co.; the Springfield Street Railway Co.; the Springfield Railway Cos.; the Berkshire Street Railway Co.; Springfield & Eastern Street Railway Co.; Central Massachusetts Electric Co.; Milford, Attleboro & Woonsocket Street Railway Co.; Western Massachusetts Street Railway Co.; Hartford & Worcester Street Railway Co.

¹ The formal act of merger of these two companies did not take place until after the merger of the Consolidated Railway Co., into the New Haven Co. on May 31, 1907.

That of the aforesaid companies the Consolidated Railway Co., prior to June 25, 1906, by the purchase of the entire capital stock of the Worcester & Southbridge Street Railway Co., the Worcester & Blackstone Valley Street Railway Co., Webster & Dudley Street Railway Co., and Worcester & Webster Street Railway Co., and a majority of the capital stock of the Berkshire Street Railway Co., the Worcester Railways & Investment Co., and of the Springfield Street Railway Co., had acquired control over them, and elected their officers and directors, who were substantially the same persons who were officers or directors of the defendant, the New Haven Co., and of the defendant, the Consolidated Railway Co.; that the stock of the Springfield Street Railway Co., namely, 19,253 shares out of a total capital stock of 19,584 shares, was, with the exception of 102 shares, which it acquired directly, acquired by the Consolidated Railway Co. through the establishment of the Springfield Railway Cos., under an agreement and declaration of trust dated March 15, 1905.

That on or about June 25, 1906, the New Haven Co., because of a widespread feeling of hostility on the part of the people of Massachusetts to the ownership of street railways by steam railroad companies in that State, and for the purpose, as your petitioner alleges, of evading a law of Massachusetts (St. 1874, c. 372, sec. 53; reenacted, St. 1906, c. 463, Pt. II, sec. 57), which provides, in substance, so far as applicable to the situation herein described, that a railroad corporation, unless authorized by the general court, shall not directly or indirectly subscribe for, take, or hold the stock of any other corporation, and, in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in paragraph VII hereof, did devise and carry out a scheme which resulted in the formation of a voluntary association known as the New England Investment & Security Co.; that by means of an agreement and declaration of trust, dated June 25, 1906, under which said New England Investment & Security Co. was organized, said voluntary association thereupon took over, and ever since has held, the stocks and securities of the Massachusetts street railway companies¹ (except the Worcester & Webster and Webster & Dudley Street Railway Cos.) which the Consolidated Railway Co. had theretofore acquired, as follows, to wit, the Worcester Railways & Investment Co., the Worcester & Southbridge Street Railway Co., the Worcester & Blackstone Valley Street Railway Co., the Springfield Street Railway Co., the Springfield Railway Cos., and the Berkshire Street Railway Co.; that the New England Investment & Security Co. issued to the Consolidated Railway Co. in payment therefor a promissory note in the sum of \$10,000,000, with interest thereon at the rate of 4 per cent per annum, the Consolidated Railway Co. at the same time indorsing, at the request of the New Haven Co., an issue of ten millions par value of preferred stock of the said New England Investment & Security Co., and receiving from that company for such indorsement, under the terms of the trust agreement, ten millions par value of the common shares—the total issue thereof—of the said New England Investment & Security Co.; that the trustees of said New England Investment & Security Co., among other powers under the said trust agreement, had the power of subscribing for, purchasing, acquiring, and holding shares of the capital stock, shares, or securities of any corporation or association owning or operating railroads or railways, and in pursuance of such authority, since the date of its formation, to wit, June 25, 1906, said voluntary association has acquired a controlling interest in the shares of the capital stock of certain of the companies hereinbefore named, to wit, Springfield & Eastern Street Railway Co.; Central Massachusetts Electric Co.; Milford, Attleboro & Woonsocket Street Railway Co.; and Hartford & Worcester Street Railway Co.; that by virtue of the ownership by the defendant, the Consolidated Railway Co., of all the common stock in said New England Investment & Security Co., and the right to direct the recall of the preferred stock in said association at a given price, held and enjoyed by the defendant, the Consolidated Railway Co., under the said trust agreement, the defendant, the Consolidated Railway Co., controlled said voluntary association, elected its trustees, who were substantially persons who are officers and directors of the defendant, the Consolidated Railway Co., as well as of the defendant, the New Haven Co., and the trustees so elected by and in the interest of the defendant, the Consolidated Railway Co., in turn elected the officers and directors of the several companies hereinbefore in this paragraph named, who were substantially the same persons who were officers and directors of the defendant, the Consolidated Railway Co., and of the defendant, the New Haven Co.; that in this manner the Consolidated Railway Co., prior to May 31, 1907, had brought under its control and management the several electric railway companies in this paragraph mentioned, so that each and all of such companies were absolutely dominated and controlled by the said the Consolidated Railway Co. in the interest of the defendant, the New Haven Co.

¹ These two companies were operated under leases authorized by the State of Massachusetts, and their stock which the Consolidated Railway Co. had acquired that company continued to hold directly

X.

STEPS IN THE SUPPRESSION OF COMPETITION BETWEEN THE NEW HAVEN CO. AND THE ELECTRIC URBAN AND INTERURBAN RAILWAY SYSTEMS OF RHODE ISLAND.

That in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in Paragraph VII hereof, in or about the month of January, 1907, the defendant, the New Haven Co., through the agency and instrumentality of a holding corporation, acquired control of the principal urban and interurban electric railways operating in the State of Rhode Island, which at that time centered about and paralleled its steam road, in the manner following, to wit: That on January 11, 1907, the name of the New England Loan & Trust Co., a corporation organized under the laws of Connecticut, was changed at the instigation of the defendant, the New Haven Co., by the decree of the superior court for Hartford County, Conn., to the name of the Providence Securities Co.; that the charter of this company fixed its capital stock at \$50,000 (with power in the directors to increase it to \$250,000), all of which the defendant, the New Haven Co., then owned, and conferred upon it the power, among others, "to buy and sell all kinds of securities, * * * to act as trustee or as financial or other agent for any * * * corporation, and in their behalf to issue registered and countersigned certificates of stock, bonds, and other evidences of indebtedness * * *"; that thereupon the defendant, the New Haven Co., owning and voting the entire capital stock of the defendant, the Providence Securities Co., and electing its officers and directors, who were and are substantially persons who were and are officers or directors of the said the New Haven Co., caused it, the said the Providence Securities Co., to issue approximately \$20,000,000 of 4 per cent 50-year debentures, which were guaranteed as to principal and interest by the New Haven Co., for the purpose of acquiring and bringing under its ownership and control the said urban and interurban electric railway system in the State of Rhode Island; that thereupon the defendant, the Providence Securities Co., did acquire the stock and other securities of the Rhode Island Securities Co.; that said last-named company was incorporated under New Jersey law, in 1902, for the purpose of uniting under a single management the street railway, gas, and electric light properties of Providence, R. I., and vicinity, and prior to the time of its acquisition by the Providence Securities Co. the said Rhode Island Securities Co. had acquired, through the purchase of a controlling stock interest in the Rhode Island Co.—a corporation organized June 24, 1902, for the purpose of uniting under a single management the street railway, gas, and electric light properties of Providence and vicinity—control of the principal urban and interurban electric lines in Rhode Island, to wit: Pawtucket Street Railway, Rhode Island Suburban Railway, and the Union Railroad; that these three last-named companies were operated by the Rhode Island Co. under 999-year leases; that some time in the past year, to wit, in or about November, 1907, the intermediary holding company, the Rhode Island Securities Co., was dissolved, and the defendant, the Providence Securities Co., since said dissolution has been and now is the direct holding company for the stock and other securities of the Rhode Island Co.; that in June, 1907, the Rhode Island Co. acquired by purchase, or otherwise, control of the Woonsocket Street Railway Co., the Providence & Burrillville Street Railway Co., and the Columbian Street Railway Co.; that through the defendant holding company, to wit, the Providence Securities Co., which controls the Rhode Island Co., as aforesaid, the defendant, the New Haven Co., has brought under its control and management the principal urban and interurban electric railway companies in Rhode Island.

XI.

STEPS IN THE SUPPRESSION OF COMPETITION BETWEEN THE NEW HAVEN CO. AND THE ELECTRIC INTERURBAN RAILWAY LINE IN NEW YORK.

That in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in Paragraph VII hereof, the defendant, the New Haven Co., through the defendant, the Consolidated Railway Co., acquired control in July, 1905, of the New York & Stamford Railway, through a 999-year lease, which lease was a short time thereafter canceled; that prior to the time of the filing of this petition the Consolidated Railway Co. has acquired the entire capital stock of \$500,000 in the interest of the New Haven Co.; that said company, the New York & Stamford Railway, operates an electric line 9 miles in length, paralleling the steam road of the defendant, the New Haven Co., extending from Port Chester, on the New York boundary line, to New Rochelle, N. Y., connecting the trolley system of Connecticut, hereinbefore described, with trolley lines running into New York City.

XII.

RESULT OF THE NEW HAVEN CO.'S ACQUISITIONS OF ELECTRIC URBAN AND INTERURBAN SYSTEMS AFORESAID.

That while it is true that most of the various companies acquired by the Consolidated Railway Co., the Providence Securities Co., the Rhode Island Co., and the New England Investment & Securities Co., in the interest of the defendant, the New Haven Co., as set forth and described in Paragraphs VIII, IX, X, and XI, were at the time of their acquisition physically intrastate railways, and engaged for the most part in the conduct of intrastate transportation, yet they were connected one with another in such a manner as to constitute a link in a system approximating 1,500 miles in length, extending from New Rochelle, N. Y., through and overrunning the States of Connecticut, Massachusetts, and Rhode Island, and paralleling, in the main, the steam road of the New Haven Co., and touching and connecting substantially the same points, and serving substantially the same territory, as will more fully appear from the map hereto attached as Exhibit B, and hereby made a part of this bill of complaint; that said system of electric railways competed with the New Haven Co. for the interstate trade or commerce carried on between and among the States of Massachusetts, Rhode Island, and Connecticut, and between those States and New York City and the South; that by the control over this electric urban and interurban interstate system, in the manner hereinbefore set forth and described, the defendant, the New Haven Co., has been enabled to and has completely suppressed such competition, and has deprived the public of the advantages thereof, and has established a monopoly of the instrumentalities of commerce in this territory so thoroughly and completely as to practically preclude the possibility of competition being hereafter revived and reestablished except by relief from this honorable court.

XIII.

FURTHER STEPS IN THE CONTROL BY THE NEW HAVEN CO. OVER THE GATEWAYS OF INTERSTATE COMMERCE IN SOUTHERN NEW ENGLAND.

That in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in Paragraph VII hereof, the defendant, the Consolidated Railway Co., through the procurement of the defendant, the New Haven Co., did, on May 25, 1905, secure from the Connecticut Legislature an amendment to the charter of the first-named company, by virtue of which, in addition to acquiring the power of being a general transportation, lighting, power, water, and holding company, it acquired franchise rights so extensive as to authorize it to construct and operate electric railways in and connecting virtually every city and town of any consequence in the State of Connecticut, to the practical exclusion of any other company, the direct effect of which was to vest in the said the Consolidated Railway Co. a substantially exclusive privilege to construct and operate electric railways in that State; that the effect of such legislation was to vest in said company the control over the gateways of interstate commerce between the States of Connecticut and Rhode Island, Connecticut and Massachusetts, and Connecticut and New York, and to thereby make future competition, as well as existing competition, with said defendant, the New Haven Co., in this territory in interstate transportation practically impossible. A copy of said amended charter is hereto attached as Exhibit A and hereby made a part hereof. That in the manner hereinbefore described the defendant, the New Haven Co., has brought under its ownership and control not only every existing means of interstate transportation in this territory and acquired a monopoly thereof, but as well, under the charter of the said the Consolidated Railway Co., has acquired in the manner aforesaid the power to prevent practically the springing up of any competition in such transportation hereafter, and has fastened a complete monopoly upon the people of the United States in this territory, to their great damage, in derogation of their common right and in violation of the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

XIV.

STEPS IN THE SUPPRESSION OF COMPETITION BETWEEN THE NEW HAVEN CO. AND THE BOSTON & MAINE RAILROAD.

The said the New Haven Co. having, by the means and in the manner aforesaid, acquired control over all avenues and instrumentalities for the transportation of persons and freight, both by steam railroads and trolley lines, between and among the

States of southern New England and between those States and New York City and the South, and having suppressed all competition in such trade or commerce and established a virtual monopoly thereof, to the detriment of the people of the United States and in violation of the act of Congress aforesaid, the said defendant, the New Haven Co., in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in Paragraph VII hereof, and unlawfully intending to enlarge the field of its monopoly and to extend it so as to cover and embrace not only all the interstate means and instrumentalities for the carriage of persons and freight in the territory above described, but as well the whole of the New England States and between those States and the rest of the United States, did, in the spring of 1907, acquire a large interest in the capital stock of the defendant, the Boston & Maine Railroad, to wit, approximately 110,000 shares, or about 35 per cent, of the total capital stock, common and preferred, of said defendant, the Boston & Maine Railroad, through and by means of an exchange of its own stock, share for share. This exchange of stock having been brought to the attention of the Legislature of Massachusetts, that body passed a law (St. 1907, c. 585; approved June 28, 1907) forbidding the acquisition of any further interest in the Boston & Maine stock by the New Haven Co., and prohibiting the exercise of any control of the stock by the New Haven Co., which it had already acquired as aforesaid, until July 1, 1908; and your petitioner is informed and believes that when said legislative prohibition is removed by the expiration of the time designated in the law a large part or the whole of the remainder of said stock of said Boston & Maine Railroad will be speedily acquired by the said New Haven Co., and a virtual consolidation of the two roads will be effected, unless prevented by this honorable court.

XIV.

ATTEMPTED MERGER OF THE CONSOLIDATED RAILWAY CO.—THE ELECTRIC RAILWAY SUBSIDIARY OF THE NEW HAVEN CO. WITH THE LATTER COMPANY.

That, in further pursuance of the unlawful combination, monopoly, and attempt to monopolize, as charged in Paragraph VII hereof, the defendant, the New Haven Co., acting with the ultimate purpose and intent of consolidating its various constituent companies, its steam railroad, trolley, steamboat, and other properties, and placing them within the direct control of one company, did, on March 26, 1907, secure from the Connecticut Legislature an amendment to its charter by which it acquired authority to at "any time hereafter merge, consolidate, and make common stock with any or all corporations engaged in transportation, wherever organized, whose property it shall hold under lease or a majority of whose capital stock it shall own * * *," that thereupon the New Haven Co. caused the capital stock of its trolley subsidiary company, to wit, the Consolidated Railway Co., to be increased from \$10,000,000 to \$30,000,000 for the purpose of taking over the New England Navigation Co., which said last-named company was organized in January, 1905, at the instance of the defendant, the New Haven Co., for the purpose of consolidating the steamboat properties which the New Haven Co. had heretofore acquired; that thereupon the said defendant, the Consolidated Railway Co., did take over the New England Navigation Co. at a valuation, as your petitioner is informed and believes, of \$20,000,000, issuing in exchange for the stock of said New England Navigation Co. \$20,000,000 of the stock of the Consolidated Railway Co.; that at the time of this transaction the defendant, the New Haven Co., owned all the stock of the New England Navigation Co. and all the capital stock of the Consolidated Railway Co., the result of such transaction being simply to transfer the nominal control of the New England Navigation Co. to the Consolidated Railway Co., while the actual control of each company was at all times in the New Haven Co.; that thereafter, to wit, on May 31, 1907, by authority and vote of the stockholders of the defendants, the New Haven Co. and the Consolidated Railway Co., the Consolidated Railway Co. was merged with and into the New Haven Co. without extinguishing the corporate existence of the Consolidated Railway Co.; that by virtue of this so-called merger the rights, corporate powers, and franchises of the defendant, the Consolidated Railway Co., were assumed to be and were treated as though the same vested in the defendant, the New Haven Co., and since said time the New Haven Co. has assumed and exercised direct control of practically all the electric urban and interurban lines, lighting, gas, and water supply works formerly owned or operated by the defendant, the Consolidated Railway Co.

XVI.

And your petitioner alleges that if the relief prayed for in this petition is refused by this honorable court, not only will the New Haven Co. retain its control of the electric urban and interurban systems, as hereinbefore described, and hold a large por-

tion of the stock of the Boston & Maine Railroad, which it has already acquired, as aforesaid, and thereby perpetuate the suppression of competition which would exist between the said the New Haven Co. and the said electric urban and interurban systems, and between the said the New Haven Co. and the said Boston & Maine Railroad, but that a situation will be created with respect to the transportation instrumentalities and facilities of New England which will eventually enable the New Haven Co. to dominate and control for all time the interstate transportation not only among the New England States, but between such States and the several other States of the Union; and your petitioner further alleges that unless the combination, monopoly, and the attempt to monopolize, hereinbefore alleged is restrained and prevented by this honorable court, as hereinafter prayed, the New Haven Co. and its officers and directors and the several other corporate defendants herein named, and their officers and directors, will acquire, or attempt to acquire, the control and ownership of all the remaining transportation instrumentalities and facilities whereby commerce is or may be carried on and conducted among the several States of New England and between such States and the several other States of the Union, and thereby a complete monopoly will be established which will absolutely control all interstate transportation among the several States of New England and between such States and the several other States of the United States and with foreign countries, in violation of the aforesaid act of July 2, 1890, and in derogation of the common rights of the people of said States of New England and of the United States.

PRAYER.

1. In consideration whereof, and inasmuch as adequate remedy in the premises can only be obtained in equity, the United States of America prays your honors to order, adjudge, and decree that the combination, monopoly, and attempt to monopolize, herein described, is unlawful, and that all acts done or to be done in furtherance of the same are in derogation of the common rights of the people of the United States and in violation of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies;" and that the corporate defendants, and each and every one of them, and their officers, directors, stockholders, agents, and servants, and each and every one of them, be perpetually enjoined and restrained from doing any act in furtherance of or for the purpose of carrying out the same.

2. That this honorable court adjudge and decree that the corporate defendants herein named (except the Boston & Maine Railroad), and each of them in violation of the provisions of sections 1 and 2 of the said act of Congress of July 2, 1890, have been and now are parties to a combination in restraint of trade and commerce among the several States of New England and between such States and the other States of the United States, and that each of said corporate defendants have attempted and now are attempting to monopolize such trade and commerce as is more particularly described in this bill of complaint; and that in pursuance of such combination, monopoly, and attempt to monopolize, as herein charged, the New Haven Co., and its officers and directors, did organize and cause to be organized the Providence Securities Co. and the New England Investment & Security Co. as purely stockholding companies to be used as instrumentalities in furtherance of the combination, monopoly, and attempt to monopolize, as herein charged; and that the said the New Haven Co., and its officers and directors, did, in the manner charged in this petition, cause the Consolidated Railway Co. to be used as a holding company and as an instrumentality and device in furtherance of the combination, monopoly, and attempt to monopolize such trade and commerce as described in this petition.

3. And your petitioner prays that the holding and control of the capital stocks of the various corporations in this petition named, in the manner and for the purpose charged herein, be adjudged and decreed to be in violation of the said act of Congress and unlawful and void as in restraint of trade and commerce among the various States of the United States and as an attempt to monopolize such trade and commerce.

4. And your petitioner further prays for the following specific relief:

(a) That the so-called merger of the Consolidated Railway Co. by, into, and with the defendant, the New Haven Co., be decreed and adjudged as ineffectual to create an extinguishment of the corporate life and existence of the said the Consolidated Railway Co.

(b) That the defendant, the New Haven Co., be ordered and required to restore and convey to the defendant, the Consolidated Railway Co., all the franchises and property, both real and personal, of every description, including stocks and other securities of the New England Investment & Security Co. which the said the New Haven Co. received, as herein alleged, from the said the Consolidated Railway Co. (except the franchises, stocks, and other property of the New England Navigation

Co.), and that the said the New Haven Co., and its officers, directors, servants, and agents, be hereafter forever enjoined and restrained from voting, whether by proxy or otherwise, any of the shares of the capital stock of the said the Consolidated Railway Co., and from receiving any dividends thereon, and from exercising in any manner whatsoever any control or supervision over the affairs and business of the said the Consolidated Railway Co. and any of the subsidiary companies owned and controlled or operated by the said the Consolidated Railway Co.

(c) That the defendant, the New Haven Co., and its officers, directors, and agents, be hereafter forever enjoined from voting either directly or indirectly, whether by proxy or otherwise, any of the shares of the capital stock of the said the Providence Securities Co., and that said defendant and its officers, directors, and agents, and each of them, be enjoined and restrained from receiving any dividends on the stocks of the said the Providence Securities Co., and from exercising in any manner any control or supervision over the affairs and business of the said the Providence Securities Co., or any of its subsidiary companies.

(d) That the defendant, the New Haven Co., and its officers, directors, servants, and agents, and each of them, be hereafter enjoined from voting either directly or indirectly, whether by proxy or otherwise any of the shares of the capital stock of the Boston & Maine Railroad, and from receiving any dividends thereon, and from exercising in any manner any control over the affairs and business of the said Boston & Maine Railroad, and that the said the New Haven Co. be restrained and enjoined from purchasing and acquiring any additional shares of the capital stock of the said Boston & Maine Railroad.

5. And your petitioner, the United States of America, also prays for such other and further relief as the nature of the case may require and that the court may deem just and proper in the premises.

To the end, therefore, that the United States of America may obtain the relief to which it is justly entitled in the premises, may it please your honors to grant unto it writs of subpoena directed to the said defendants, the New York, New Haven & Hartford Railroad Co., the Boston & Maine Railroad, the Consolidated Railway Co., and the Providence Securities Co., and to each of them, demanding them and each of them to appear herein and answer, but not under oath, the allegations contained in the foregoing petition, and abide by and perform such order and decree as the court may make in the premises; and that pending the final hearing of this case, a temporary restraining order may issue enjoining the defendant, the New Haven Co., its officers, directors, and agents, as hereinbefore prayed.

AZA P. FRENCH,

United States Attorney for the District of Massachusetts.

CHARLES J. BONAPARTE,

Attorney General of the United States.

MILTON D. PURDY,

Assistant to the Attorney General.

UNITED STATES OF AMERICA,

District of Massachusetts, ss:

Asa P. French, being first duly sworn, says that he is the attorney of the United States for the district of Massachusetts, and that he has read the foregoing petition by him subscribed, and that the statements made therein are true, except as to such matters as are stated on information and belief, and as to those, he believes them to be true. He further says that he was authorized to sign said petition on behalf of the United States by the Attorney General of the United States.

ASA P. FRENCH,

United States Attorney for the District of Massachusetts.

Subscribed in my presence and sworn to before me this ——— day of ———, 1908.

EXHIBIT "A."

[Special Laws of Connecticut, 1905, p. 706. H. J. Res. No. 402. 274.]

AMENDING THE CHARTER OF THE CONSOLIDATED RAILWAY CO.

Resolved by this assembly: That, whereas the corporation originally created as the Thompson Tramway Co., whose name was changed to be the Worcester & Connecticut Eastern Railway Co. and afterwards to be the Consolidated Railway Co., has by virtue of the powers granted in its charter acquired by purchase and now holds, enjoys, and exercises the property and franchises of certain corporations of this State,

to wit: The Fair Haven & Westville Railroad Co., the Winchester Avenue Railroad Co., the Peoples Tramway Co., the Danielson & Norwich Street Railway Co., the Norwich Street Railway Co., the New London Street Railway Co., the Montville Street Railway Co., the Middletown Street Railway Co., the Meriden Electric Railroad Co., and the Wallingford Tramway Co., which corporations by purchase, consolidations, or leases had acquired and were using, exercising, and enjoying the property and franchises of other corporations of this State, to wit: The New Haven & North Haven Street Railroad Co., the New Haven & Centerville Street Railway Co., the New Haven Street Railway Co., the New Haven & Morris Cove Railroad Co., the New Haven & East Haven River Railroad Co., the State Street Horse Railroad Co., the Whitney Avenue Horse Railway Co., the Edgewood Street Railway Co., the New Haven & West Haven Horse Railroad Co., the West Shore Railway Co., the Putnam & Thompson Street Railway Co., the Portland Street Railway Co., and the Lake Saltonstall Railway Co. And whereas said first-named corporation has petitioned this general assembly to renew and extend for its use and enjoyment the rights, privileges, franchises, and powers granted in its charter and amendments thereto and in the charters and amendments thereto of such other corporations and to grant to it additional powers.

SECTION 1. The said corporation now existing under the name of the Consolidated Railway Co. shall have the power in this State and elsewhere to transport persons or property, or both, as a common carrier and to acquire, establish, hold, maintain, use, and operate in this State and elsewhere, subject to all laws then and there in force any property or instrumentalities lawful and suitable for any such purpose, or directly or indirectly connected with the business of transportation: but a majority of its directors shall at all times be residents of this State. The location and construction of all tracks, switches, crossovers, fixtures, poles, wires, and appurtenances now used or operated by said corporation are hereby validated and confirmed as at present existing for the use and benefit of said corporation; and any and all rights to construct any lines of electric railways or street railway heretofore granted by the general assembly to said corporation, or to any of the corporations named in the preamble to this resolution, except the right to construct such a railway from Jewett City to Norwich by way of Preston, granted to the Danielson & Norwich Street Railway Co. by resolution approved May 14, 1901, which have not expired by limitation of time, are as distinct and separate local franchises hereby extended and continued in force to said corporation whose charter is herein amended until July 1, 1907.

SEC. 2. Said corporation whose charter is herein amended shall have power and authority, as a matter of public convenience, subject to all general laws governing the construction of railways in streets or highways, to locate, construct, maintain, and operate railroads, railways, or tramways for the transportation of passengers or goods, or both, with single or double tracks and such turnouts and switches and connections and fixtures and appurtenances as may be necessary for the most efficient, economical, and advantageous conduct of said business upon the streets, highways, and public grounds upon which said corporation now operates or shall hereafter lawfully operate a railroad, railway, or tramway; and upon any private lands and across intersecting streets or highways in any of the towns within which said company shall lawfully operate an electric railway; and also upon the streets, highways, public grounds, private lands, and routes named or generally described hereafter in this section, as follows:

From any point on the Baltic line of railway of this company in the town of Norwich to, into, and through the borough of Jewett City; and also thence to a connection with its existing railway in the town of Plainfield on such streets, highways, public grounds, and private lands in the towns of Norwich, Sprague, Lisbon, Canterbury, Plainfield, and Griswold as it may find most suitable and advantageous for the construction, operation, and maintenance of a railway; also from a connection with the tracks of the Consolidated Railway Co., on Main Street in the town of Portland, thence through and along the main highway between Portland and Glastonbury, or on private way near to said highway, to connect with the tracks of the Hartford Street Railway Co. at South Glastonbury, so called, in the town of Glastonbury; also in the town of Middletown through Court Street from Main Street to the private way running east of land of the Middlesex Banking Co., and from a connection with its tracks in Main Street just southerly of the tracks of the Air Line Branch of the New York, New Haven & Hartford Railroad Co., northerly through said Main Street crossing over the tracks of said railroad and through North Main Street to and across Johnson Street, thence northwesterly through private way crossing West River to and across Newfield Street, thence northwesterly through private way crossing intersecting highways to connect with the tracks of the Middletown, Meriden & Waterbury Railroad near the Westfield station of said railroad, or upon and

along or across other highways, excepting Washington Street between Main Street and Park Place and High Street between Church and Lincoln Streets; also on private lands from some convenient point on its existing railway in the town of Middletown to some other convenient point on said Middletown, Meriden & Waterbury Railroad; also from a connection with its tracks at the corner of Main and Broad Streets, in the town of Meriden, thence through North Broad Street and the New Haven & Hartford turnpike to the terminus of the tracks of the Connecticut Railway and Lighting Co. in the town of Berlin; also from a connection with its tracks in Griswold Street, in the town of Meriden, thence through North Colony Street and the Old Colony Road so called, to and along the New Haven and Hartford Turnpike in the town of Berlin.

Also from a connection with its tracks, at the corner of Broad and Curtis Streets, in the town of Meriden, southerly through said Broad Street, to a point near Johnson's Lane, so called; thence southerly through private way between Broad and Curtis Streets, crossing intersecting highways, to a point near the main highway to Yalesville; thence southerly through private way, North Colony Street, South Colony Street, and through private way near to the New York, New Haven & Hartford Railroad, crossing intersecting highways to a connection with its tracks near the southerly end of South Main Street, in the town of Wallingford, or from the above-mentioned point near the main highway leading to Yalesville; thence through private way crossing intersecting highways and through North Main Street to a connection with its tracks in said North Main Street in the town of Wallingford. Also in Meriden from a connection with its tracks in Pratt Street northerly through private way to connect with the tracks of the Middletown, Meriden & Waterbury Railroad, so called, or from a connection with its said tracks in Pratt Street through said Pratt Street and North Broad Street to connect with the tracks of said Middletown, Meriden & Waterbury Railroad; also, from a connection with its tracks in West Main Street, near the corner of Bradley Avenue, in said Meriden, southwesterly through private way to connect with the tracks of the said Middletown, Meriden & Waterbury Railroad; also, from a connection with its tracks at the corner of Hanover Street and Cook Avenue, in said Meriden, southerly through said Cook Avenue and the Old Colony Road, so called, to connect with its tracks at Archer's corner, so called.

Also from a connection with its tracks on Main Street, at the intersection of Cook Avenue, in the town of Meriden, thence along Cook Avenue to Old Colony Road and through Old Colony Road to a connection with its present tracks on Hanover Avenue at Archer's Corner, so called; also, in said Meriden from a connection with present tracks at the intersection of Main and Broad Streets, along Broad Street to Britania Street, and along Britania Street to a connection with present tracks at the intersection of Griswold Street; also, in said Meriden from present end of track on Pratt Street to Broad Street; also, from a connection with its tracks at the corner of State and Division Streets, in the town of Hamden, northerly along State Street to Broadway; thence easterly through said Broadway, or through private way near to said Broadway, passing under or over the tracks of the New York, New Haven & Hartford Railroad Co., to connect with its tracks in Washington Avenue, in the town of North Haven; also, from a connection with its tracks at Mount Carmel, so called, in the town of Hamden, in a northeasterly direction through private way to a point in the highway south of Mount Carmel at the top of the hill just east of Mill River; thence through said highway to the New Haven & Hartford turnpike; thence through said turnpike and River Street to a connection with its tracks in the town of Wallingford, or from a connection with its tracks at said Mount Carmel northeasterly in a nearly direct line through private way crossing intersecting highways to a point near the intersection of the above-mentioned highways, south of Mount Carmel, with the New Haven & Hartford Turnpike; thence northerly along said turnpike and River Street or on private way near to said highways to a connection with its tracks in the town of Wallingford.

Also from a connection with its tracks from the corner of the Old Colony Road, so called, and Oak Street, through said Old Colony Road, crossing under the tracks of the New York, New Haven & Hartford Railroad Co., and through North Colony Street to a connection with its tracks in Center Street, all in the town of Wallingford; also, from its tracks on Central Avenue, in the town of Norwich, turning out on Twelfth Street to reach the car house in the new location; also, from a connection with its tracks at the corner of Campbell Avenue and Thomas Street in said town of Orange, thence through Thomas Street, Peck Avenue, Brown Street, and Second Avenue to connect with its tracks in Elm Street, or from a connection with its tracks at the corner of Campbell Avenue and Thomas Street, in said town of Orange, through Thomas Street and East Avenue or Meadow Street to Blohm Street; thence through Blohm Street and Second Avenue to connect with its tracks in Elm Street; also, from a

connection with its tracks at the corner of Campbell Avenue and Milford Turnpike, in said town of Orange, through Campbell Avenue or Forest Street, to connect with its tracks in Derby Avenue, this last-described route to be operated in the summer season only; also, from a connection with its tracks on Truman Street, near Blinman Street, in the town of New London, thence through said Truman Street to connect with its track near Shaw Street.

Also from a connection with its tracks on Bank Street at the intersection of Truman Street, in the town of New London; thence along Truman Street to a connection with its tracks on Truman Street at the intersection of Blinman Street; also from a connection with its tracks at the corner of Chapel and Norton Streets, in the town of New Haven; thence through Chapel Street to a point near the westerly boundary of Edgewood Park; thence southerly through private way crossing intersecting highways to connect with its tracks in Derby Avenue near St. Lawrence Cemetery, in the town of Orange; or from a connection with its said tracks at the corner of said Chapel and Norton Streets; thence through Chapel Street to its intersection with the proposed extension of Yale Avenue; thence southerly through said extension of Yale Avenue and Yale Avenue as at present laid out to connect with its tracks in Derby Avenue, in the town of Orange; also from a connection with its tracks at the corner of said Yale and Derby Avenues; thence through Yale Avenue and Maltby Avenue, and thence through Central Avenue or through private way to connect with its tracks in Derby Avenue near St. Lawrence Cemetery, said route being partly in the town of New Haven and partly in the town of Orange, the railway upon these three last-described routes to be operated in the summer season only; also from a connection with its tracks in Townsend Avenue at the corner of Concord Street; thence through Concord Street and Morris Causeway, so called, to connect with its tracks in the old Lighthouse Road; also from a connection with its tracks in Whitney Avenue at the corner of Lawrence Street through Lawrence Street to connect with its tracks in State Street.

Also from a connection with its tracks in Winthrop Avenue at the corner of Oak Street, in the town of New Haven, through Winthrop Avenue to connect with its tracks in George Street; also from a connection with its tracks in Meadow Street through New Union Avenue to a connection with its tracks in State Street, in the town of New Haven; also from a connection with its tracks in its car house at the corner of Clay and Fillmore Streets; thence through said Clay Street to connect with its tracks in Ferry Street, all in the town of New Haven; also from a connection with its tracks at Lighthouse Point, in the town of New Haven; thence easterly through private way near and approximately parallel to the northerly shore of Long Island Sound to connect with its tracks at Momaugin, so called, in the town of East Haven, said railway to be operated in the summer season only. Said corporation may make traffic agreements with any railroad company or street railway company, and shall have the right and power, with the consent of any railroad company or street railway company, to construct and maintain connections at grade of its tracks with any tracks of such railroad company or street railway company and crossovers upon private land at grade for the purpose of making such connections.

SEC. 3. The said corporation whose charter is herein amended is hereby authorized and empowered to acquire and develop water powers for the generation of electricity, and to construct and acquire or hold, use, and operate plants for the generation of electricity by means of water power or steam or both or by any other means, and also to establish and maintain upon any private lands and across, over, or under any streams or waters and, subject to the provisions of sections 3904, 3905, 3906, and 3907 of the general statutes, along or across and upon, above, or under the streets, highways, and public grounds upon which it shall lawfully operate an electric railway, or which shall form a part of its route adopted for the transmission of electricity from any place where it is generated or developed to any part of any lines of railroads or railways where such electricity is to be used or applied, suitably constructed and supported conductors, including lines of poles and wires and underground conduits and wires, and properly supported cables, and including all proper fixtures and appurtenances, and also to transmit therewith, thereby, or therein electricity in such manner and of such quantities and pressures as said corporation shall find necessary for the best conduct of its business.

SEC. 4. Said corporation whose charter is herein amended is hereby authorized and empowered from time to time to acquire by lease, purchase, or otherwise upon such terms and conditions as may be agreed upon, and to hold, use, exercise, enjoy, and dispose of the whole or any part of the capital stock, evidences of indebtedness, contracts, property, rights, powers, privileges, and franchises of any other corporations, whether of this State or of any other State, and whether now or hereafter existing, which are or shall be engaged or authorized to engage in the transportation of persons, or property, or both, or in the generation or development of electricity or of any

power, and to issue either its capital stock, or its bonds, or other evidence of indebtedness, or any or all of them, to such amount as said corporation whose charter is herein amended shall find necessary for the purpose of effecting such acquisition or for other lawful purposes of its business. Every franchise, right, power, or privilege heretofore, now, or hereafter granted to or purchased by the corporation whose charter is herein amended shall be held, enjoyed, and exercised by said corporation without suffering qualification or abatement by construction because of its also holding by grant or purchase other franchises, powers, or privileges of a similar nature, but of a more limited, qualified, or conditional character.

Every corporation, whether now or hereafter organized, authorized by this State to engage in the transportation of persons or property, or both, or in the generation or development of electricity or of any power, or actually engaged in any such business within this State; or any corporation of this State which shall own or control at least three-fourths in amount of the capital stock of any such corporation, after a vote so to do of three-fourths in interest of its stockholders at a meeting called for the purpose of taking the matter into consideration, upon notice of the time, place, and object of the meeting published in a newspaper, in the city or town in which such corporation has its principal office, twice a week for four weeks, or if all the newspapers published in said city or town are weekly newspapers, then once a week for four weeks, or if no newspaper is published in said city or town, then twice a week for four weeks in some newspaper published in the county in which said city or town is located, may sell, convey, lease, or otherwise dispose of, to said corporation whose charter is herein amended, the whole or any part of its property, contracts, rights, powers, privileges, and franchises, for a consideration to be paid, whether once for all, or periodically as interest, rent, or otherwise, in cash, shares of stock, and obligations of the latter corporation, or in either or any of them, or on such other terms and conditions as may be agreed upon between said corporations. No vote of any such corporation or any of the things performed thereunder or in pursuance thereof shall be invalidated, affected, or questioned in any way because all or any part of the stock or other securities of either or any of the corporations contracting as aforesaid or participating in any such sale, conveyance, lease, or other arrangement may be owned or controlled by or held by or for any other one of said corporations, or because stockholders, directors, or officers of any such contracting or participating corporation shall be stockholders, directors, or officers, or shall be otherwise interested in any other of said corporations.

Any holder of stock of any such contracting or participating corporation whose property or franchises shall be sold, conveyed, leased, or otherwise disposed of who shall not vote for such sale, lease, or other disposition of the same and shall not receive anything on account thereof, and who shall dissent from or object thereto, may, at any time within 30 days after the making of such sale, conveyance, lease, or other disposition, commence a civil action against said corporation whose charter is herein amended by complaint to any judge of the superior court, who shall on reasonable notice to said corporation appoint three judicious and disinterested persons, who shall be paid for their time actually spent in the matter and their services by said corporation, and who shall appraise the full market value of such stock without regard to any depreciation or appreciation thereof in consequence of said sale, conveyance, lease, or other disposition. Their appraisal or that of a majority of them shall be returned in writing under the hands of those making the same to the clerk of the superior court within and for New Haven County, to be by him recorded among the records of said court; and thereupon such appraisal shall be final and conclusive between the parties and shall have the effect of a judgment of said court in favor of said stockholder against said corporation; and execution thereon may issue at the end of 60 days from the time of such return.

Upon payment to such stockholder of the value of his said stock as determined by such appraisal, or, in case of refusal to accept the same or any legal disability or absence from the State of such stockholder, upon deposit of the proper amount determined as aforesaid with said clerk of the superior court, to be held for the benefit of such stockholder subject to the direction and order of said court, said stockholder shall be bound to transfer his said stock to the said corporation to be disposed of by the directors thereof or retained and used for the benefit of the said corporation or its stockholders: and said court may make any order or decree proper to secure or effect the transfer of said stock to said corporation, which order or decree shall have the effect of a judgment in the civil action instituted by such stockholder, and may be passed after making other persons or corporations parties to said proceedings upon such notice as the court may prescribe.

If any stockholder shall vote for such sale, conveyance, lease, or other disposition, or if he shall receive anything on account thereof, or, if he does not so vote and does

not receive anything on account thereof and nevertheless shall fail to avail himself of the foregoing provisions to have his stock appraised within the time limited, he shall be bound finally and conclusively by said sale, conveyance, lease, or other disposition, and shall be forever estopped to call in question said sale, conveyance, lease, or other disposition, if lawfully made, or any of the things lawfully performed thereunder or in pursuance thereof.

If under the terms agreed upon by such contracting or participating corporations as a consideration for said sale, lease, or other disposition, anything is to be paid or delivered by said corporation whose charter is herein amended to any stockholder coming under the provisions of the preceding sentence and such stockholder shall, upon a tender of what is to be thus paid or delivered to him, refuse or neglect to perform all acts and do all things required of such stockholder under or by virtue of the said agreed terms and to comply therewith in all respects, then said corporation may, in its discretion, in preference to resorting to other lawful remedies, deposit what such stockholder is so entitled to receive with the treasurer of the State of Connecticut, to be held by said treasurer and his successors in office for the use and benefit of and subject to the order of such stockholder, his heirs, executors, and administrators, or his assigns, and upon such deposit the corporation whose charter is herein amended shall have and enjoy all titles and rights and may exercise all powers which under or by virtue of the said agreed terms it would be entitled to have, enjoy, and exercise, respectively, after full compliance with said terms by such stockholder. If after any such deposit is made the stockholder for whose use and benefit it is made shall commence a civil suit against said corporation in accordance with the preceding provisions of this section, all right and interest of such stockholder in said deposit shall thereby forthwith be terminated, and thenceforth the treasurer of the State shall hold such deposit for the use and benefit of and subject to the order of said corporation.

SEC. 5. Said corporation whose charter is herein amended shall have full right and power from time to time, any other law to the contrary notwithstanding, to guarantee the contracts and the bonds or other obligations of any other corporation, now or hereafter and wherever organized, which is engaged or authorized to engage in the transportation of persons or property, or both, or in the generation or development of electricity or of any power, and of any corporation, association, or partnership, now or hereafter and wherever organized, which owns or controls at least a majority of the capital stock of any such other corporation, and to guarantee the payment of interest on such bonds or other obligations of any such other corporation or dividends on the capital stock of any such other corporation.

SEC. 6. The corporation whose charter is herein amended shall, for the sake of the convenience of the public, have the right to take, with the approval of the railroad commissioners, in the manner provided in section 3687 of the general statutes, real estate, including lands and interests in lands, rights of flowage, and easements of any nature, for the purpose of constructing or improving any railroad or railway which it shall have the authority or right to construct or operate, or for the purpose of developing any water power or transmitting electricity in accordance with the provisions of section 3 of this resolution. Whenever in the development of any water power it shall become necessary or convenient to alter the grade or course of any road or highway the said corporation may, at its expense with the consent of the municipal authorities having charge of the maintenance of such road or highway, make the proper changes in the grade or course of such road or highway in such manner as not to impair its usefulness and so as to leave it in a condition acceptable to said municipal authorities; and said corporation shall be liable to any owner of land adjoining a highway so changed or of any interest in such land for any special damage to him caused by such change.

The provisions of this section shall not authorize or permit the taking of any natural pond, or of any lake, or of any dam or developed water power, or of any real estate naturally appurtenant to or suitable for the development of any particular water power of any corporation which has been heretofore chartered by the general assembly or has been heretofore organized under the general corporation law, with authority to develop such water power and which has already acquired any real estate for all or any part of its water-power purposes, or of any real estate already acquired by a manufacturer for the purpose of further reasonably developing for the necessities of his business an already developed water power used in such manufacturing business, nor shall said corporation have power to take any land or water rights acquired by any public or private corporation for the purpose of supplying any community with water for public or domestic use. When any feme covert, infant, cestui que trust, or person non compos mentis shall be interested in property required by said corporation for any of the purposes aforesaid said property shall be taken under this section on giving notice to the husband of such feme covert, the trustee of such cestui

que trust, the guardian, either natural or appointed, of such infant, and the conservator of such person non compos mentis, who may, respectively, give releases for all damages for lands so taken as fully as if the same were holden in their own right.

SEC. 7. The corporation whose charter is herein amended shall have the power to acquire by purchase, lease, or otherwise and hold real estate for pleasure grounds for the recreation of the patrons of its railroads or railways, to develop and maintain such pleasure grounds and provide therein any lawful instrumentalities of popular recreation, and to charge tolls for admission to such grounds and also for the use and enjoyment of such instrumentalities of recreation. Such pleasure grounds and the rights conferred by this section may be sold, leased, or otherwise disposed of to any other person or corporation.

SEC. 8. Nothing in this resolution shall authorize or permit the operation of a railroad, railway, or tramway by steam along any street or highway. Nothing in this resolution shall authorize or permit the building or extension within this State of a railroad, railway, or tramway so as to parallel any street railway or electric railway or steam or other railroad of any other company without the consent of such company or a finding by a judge of the superior court, after application, notice, and hearing as provided in section 3846 of the general statutes, that public convenience and necessity require the building or extending of such railway or tramway. Nothing in this resolution shall authorize or permit the construction within this State of a railroad, street railway, electric railway, or tramway within any town within which any other company shall have the charter right to construct a railroad, street railway, electric railway, or tramway of any description without the consent of such other company, except upon routes, streets, and highways upon which the right to construct a railroad, street railway, electric railway, or tramway has been or shall hereafter be specifically granted to the corporation whose charter is herein amended, or to a corporation which shall lawfully hold its franchises, or to a corporation whose franchises shall have been by it lawfully acquired.

SEC. 9. The said corporation whose charter is herein amended is hereby located in the town of New Haven.

SEC. 10. Nothing in this resolution shall affect any action now pending or any remedy claimed therein.

Approved, May 25, 1905.

Mr. HARDWICK. The allegations are that all those transactions are in violation of the existing Federal law?

Mr. WHITE. Yes, sir; and the amendments thereof.

I want to submit Gov. Curtis Guild's further statement in his own newspaper in regard to this matter. It is as follows:

TUNNELS.

Among the propositions put forward by the Morgan railroad monopoly of Massachusetts, in relation to the prevention of the entrance of any competing lines into Boston, is the suggestion of a tunnel connecting directly the Boston & Maine system and the roads running from the South Station.

The first proposition was a highly expensive plan of a tunnel under the city itself, with the added proposition that the people should themselves, in part at least, pay the bill.

This proposition is now modified. It is now proposed that a less expensive tunnel shall be built under the harbor, not the city, from East Boston to the South Station. This tunnel would not merely be used to convey passengers from the northern suburbs to the southern suburbs. By the utilization of the old right of way still possessed by the old Eastern Railroad, now merged in the Boston & Maine, express trains from the North could be switched off at Revere from the main line and run through East Boston under the harbor via the South Station to New York.

There is no question that such a course would be of the greatest possible value to New York and of the greatest possible value to the railroad. Customers in Maine and New Hampshire would thus be brought to New York with a minimum of inconvenience and New Yorkers and westerners could be swung down to Bar Harbor and other summer resorts without the necessity of even patronizing a cab in Boston. It is obviously for the benefit of the railroad to keep a passenger on its cars the longest possible time. If a Bangor dry goods merchant can be persuaded to buy his goods in New York instead of Boston, the railroad gets a fare to and from Boston that it otherwise would not have. It also gets more money in freight on the goods bought in New York and hauled the longer distance.

In the first flush of a new enterprise such swift transportation under the city appeared to many of us as a beautiful desideratum, but sober second thought suggests that it may be a very serious injury to Boston.

New York has tunnels and tubes for the promotion of local traffic, but for the promotion of local traffic exclusively. If such tunnels connecting main passenger lines were a help to New York, why has not the Pennsylvania system been so connected with the New York Central and New York, New Haven & Hartford system that a passenger may be swiftly conveyed from Jacksonville, or Washington, or Louisville, or Philadelphia to Boston without ferry or change of cars in New York?

The answer is obvious. By deliberately separating New York's great stations and by encouraging stopping in New York, New York is thereby made a terminus, not a way station.

Philadelphia once did a tremendous jobbing trade with the South. Philadelphia is now a way station. The southern buyer is whisked by Philadelphia to New York. New York gets the trade and the railway gets the extra pay for the additional distance traveled. Portland was once a terminus. The merger of the Northern New England roads with swift through trains to Boston made Portland a way station. Boston got the extra trade and the railroad pocketed the extra railroad fares as well as the extra freight and express rates on goods shipped from a more distant distributing center.

To-day Boston is at once a terminus and a halting place. It is the journey's end for those who at present come from northern New England to buy supplies of Boston jobbers. It is a convenient halting place for those who are tempted to break here the long journey from the West to the summer resorts in Maine, our own north shore, and New Hampshire.

Every man, woman, and child rushed through Boston without stopping reduces not merely the number of wholesale buyers in Boston, but the number of retail buyers who not merely patronize the hotels and theaters during the short stay en route, but purchase supplies at Boston department stores, groceries, china shops, and establishments for the sale of tents, canoes, guns, fishing rods and other out-of-door paraphernalia.

Make Boston a way station, as proposed, and you reduce the number of people who stop at Boston hotels over night. Reduce your hotel patronage, cut off even those who spend but a single night in the city, and you reduce to that extent the patronage of theaters, concerts, art exhibits, and especially of the retail shops.

The Morgan monopoly tunnel, as proposed, would take many of those now spending their money here straight through Boston to New York to spend their money there.

The Boston and Eastern Tunnel, as proposed, with a terminus in Post Office Square, would bring more people to Boston to spend money in Boston, not only from Revere Beach and Lynn, but from more distant points.

Clinton White and George W. Bishop of the Massachusetts Railroad Commission are trying to make Boston a way station.

Walter Perley Hall of the Massachusetts Railroad Commission voted to make Boston a terminus.

The way-station plan with the long haul means the most for the railroad.

The terminus plan means the most for Boston.

Would real estate, for example, in the vicinity of the North Station, improve in value if all the through express trains were switched off at Revere, through a tunnel, and the North Station made not even a way station, but the mere terminus of a spur track?

Think it over.

I also want to present this committee with the reports of James R. Crozier opposing the merger of these systems, and dissenting from the majority report of the commission on commerce and industry, which has been reprinted at the request of the Massachusetts State Branch of the American Federation of Labor.

It is as follows:

THE DISSENTING REPORT OF JAMES R. CROZIER OPPOSING THE MERGER OF THE NEW YORK, NEW HAVEN & HARTFORD AND BOSTON & MAINE RAILROAD SYSTEMS AND DISSENTING FROM THE MAJORITY REPORT OF THE COMMISSION ON COMMERCE AND INDUSTRY.

[Reprinted at the request of the American Federation of Labor, Massachusetts State Branch.]

MARCH, 7, 1908.

To the honorable senate and house of representatives in general court assembled:

I am opposed to the merger of the New York, New Haven & Hartford and Boston & Maine Railroads, whatever be the form of merger proposed and whatever pretended safeguards may be provided. I am strengthened in this opinion by the knowledge that my predecessor on this commission, the late lamented Edward Cohen, held the same views.

The consolidation of railroads in Massachusetts has already gone far beyond the point of safety for the people and the best efficiency on the part of the companies. The New Haven and the Boston & Maine are each now so large that the people do not get the best possible service.

Two serious mistakes were made by the legislature of 1900, when it permitted the New York Central to lease the Boston & Albany, and the Boston & Maine to lease the Fitchburg Railroad. The majority of the commission recognize that the people have suffered from both of those mergers, but instead of accepting the disastrous results of those two mergers as a warning example, they recommend to the legislature another and still larger consolidation.

The majority of the commission advise the legislature that the best form of merger is to allow the New Haven to hold the stock of the Boston & Maine which is acquired without authority under Massachusetts law, and to let it buy more. That seems to me the most dangerous of all forms of merger. It would give the New Haven full control, without its being obliged to assume any responsibility.

The majority of the commission propose, as practically the only safeguard, to give to the Commonwealth, if it is not satisfied with the New Haven's management after five years, the right to buy from the New Haven the Boston & Maine stock at its market value. I do not believe that the people will consider this an adequate safeguard. I am sure that it is a very one-sided bargain, and a very dangerous one to the people of Massachusetts, when one considers how market values are constantly manipulated.

The objections to this merger can not be removed by any mere change of form, or by providing any additional safeguards. The main objection is that a merger of these two railroad systems would result in a complete monopoly, not only of all railroad transportation in Massachusetts, but of all methods of transportation—of steamship lines and trolleys, as well as the railroads. It has been the steady policy of the New Haven Co. to secure such a monopoly wherever it has any railroads. It has pursued everywhere the policy of suppressing all competition, regardless of the cost to the community of its doing so. It has followed this policy in Massachusetts regardless of our law and of its own promise to the contrary.

Gov. Guild pointed out to the legislature of 1906 that "healthy competition in western Massachusetts is already throttled." Since then the New Haven Co. has extended its monopoly in central and southern Massachusetts. It is trying to make its monopoly in Massachusetts as complete as its monopoly is in Connecticut and Rhode Island. It owns already every steamship line between New York City and the New England States with the possible exception of one. No such complete monopoly in transportation can be found in any other part of the United States. Capitalists may approve an extension of this monopoly, but I can not believe that the people of Massachusetts will. The people know the evils of monopoly and its dangers.

I desire also to record my emphatic protest against the methods of secret investigation which the subcommittee on transportation adopted.

There is scarcely a man or woman in Massachusetts who has not some knowledge of our transportation facilities. There is scarcely a man or woman in Massachusetts who has not some opinion as to whether a transportation monopoly in the hands of aliens is or is not a good thing for the people of Massachusetts.

The legislature of 1907 intended that, unless the New Haven Co. abandoned its attempt to control the Boston & Maine, the people should have an opportunity to be heard on this question. The act passed last year, entitled "An act to restrain the consolidation of railroad corporations," provided in substance that if the officers or stockholders of either of the railroad companies desired, they might apply to the railroad commissioners for a hearing on the question whether the consolidation "is con-

sistent with the public interests." Under the law, hearings before the railroad commissioners would have been public. The corporations and capitalists who favor the merger would have been obliged to present their evidence and their arguments. They would have been subject to cross-examination in public, and the people who oppose the merger would have had an opportunity of presenting their evidence and their arguments.

Those who favor the merger evidently did not dare to follow the method which the legislature provided of a public investigation. They did not make any application to the railroad commission; and, instead of that, the commission on commerce and industry, which was appointed for an entirely different purpose, undertook to make an investigation conducted privately.

Not only has no public hearing been given by the subcommittee on transportation, which undertook the investigation, but the public was not even notified that the merger question was being considered by this commission. Indeed, the fact that members of this commission were investigating the subject was known only to a few people until after the legislature convened and at the time when the report of the commission should have been filed.

The records of the commission disclose that a few persons were, at the invitation of the subcommittee, or upon their own request, privately heard by the commission. Those heard were mainly persons connected with the public service or transportation companies, capitalists, or lawyers. I do not find in the list a single representative of labor, organized or unorganized, or of those who work for salaries, and only very few who are merchants or manufacturers.

The records kept by the commission do not disclose that hearings were given to officials or counsel of the New Haven Co.; but I am informed that the majority of the commission has had private conferences and other communications with them. Indeed, I find on examining the records a memorandum (of which copy is annexed) of a communication made three months ago by the members of the subcommittee on transportation, who constitute a majority of this commission, to the vice president of the New Haven Co.

DECEMBER 12, 1907.

We can not, of course, commit ourselves by predicting what our final conclusions and recommendations may be, but we are willing to say personally that we are now engaged in considering the subject of the control of the Boston & Maine by the New York, New Haven & Hartford Railroad, in the attempt to determine upon safeguards which would make the arrangements safe for the Commonwealth. In this situation we should be sorry if the New York, New Haven & Hartford should now take action which would cut off all possibility of some arrangement being entered into which might conduce to the welfare of the Commonwealth, and the company as well.

(Conversation with Mr. Byrnes over telephone, Dec. 12, 1907.)

J. B. W.
G. G. C.
C. F. A., 2d.

Upon my appointment to this commission I found that the majority were preparing a report on the merger. I therefore gave all my time to that question, and have not considered any other.

JAMES R. CROZIER.

THE ALLEGED ADVANTAGES OF MONOPOLY.

Vice President Byrnes has made this statement:

"The Central New England, as an independent line, had no legitimate function to perform. It was a hopeless proposition from the start, never earning the interest on its bonds, and often failing to earn its operating expenses. Its only possibility of continued existence lay in its connection with a strong established line which could foster and develop it."

[From the Springfield Republican, March 19, 1908.]

What the New Haven does:

PROTEST OVER REDUCTION—ON THE CENTRAL NEW ENGLAND—ONLY ONE TRAIN EACH WAY—ACCORDING TO ORDERS JUST ISSUED—INTERFERENCE WITH SHOPPING AND FREIGHT.

A storm of protest has been aroused over the announcement that, beginning tomorrow, there will be only one train a day on the Central New England between this city and Tariffville. After that date the train leaving this city daily, except Sunday, for Tariffville at 3.45 p. m. will be discontinued, as will the train leaving Hartford for Springfield and way stations at 9.55 a. m., while the train now leaving Springfield at 7.48 a. m. will leave at 7 a. m., and other stations correspondingly early. Four trains on the Rhinecliff branch will be discontinued between Millerton and Silver-nails.

This change means that residents of places on the Central New England between this city and Tariffville will be unable to stop here, because the only train to this city will arrive at 6.55 p. m., after the stores are closed, while the only train out of this city will be the one that leaves at 7 a. m. Accordingly petitions will be circulated among residents of Tariffville, Feeding Hills, East Granby, West Suffield, and business men of this city, asking that the road continue the service as at present. As the passenger trains are also the freights, there will be serious interference with shipping and receiving of goods all along the line. A delay of 24 hours in delivery of mails is among the disadvantages of the change, for the mails from the north arrive at 7 15 a. m., while mails from Boston and New York arrive so near 7 o'clock that the slightest delay would cause them to miss the Central New England connection. Even if the mails be sent to Hartford, and then be sent up the line from that city, there will be a delay of at least 12 hours.

Following is copy of resolutions passed by the Rockland Central Labor Union:

ROCKLAND, MASS., *April 7, 1908.*

Whereas we believe that the people of this Commonwealth are entitled to the most efficient service, and the lowest cost of transportation from the railroads; and Whereas they are assured of this only when there is a reasonable competition between railroads such as now exists; and

Whereas a consolidation of the two big systems would result in a complete monopoly most destructive to their progress: Therefore be it

Resolved, That this body use every reputable method against the legislation of the proposed merger; and be it

Further resolved, That a copy of these resolutions be sent to our Representative and Senator.

ABRAHAM LELYVELD, *Secretary.*

THE HAMPDEN COUNTY TRAFFIC ASSOCIATION, MASSACHUSETTS,
Chicopee, Mass., June 7, 1909.

Whereas a so-called "governor's holding bill" has been presented to the house and senate of the State of Massachusetts for enactment; and

Whereas the so-called "governor's holding bill" will not, in our judgment, best conserve the producing, consuming, and public interests of the State or New England: Therefore, be it

Resolved by this, the Hampden County Traffic Association of Massachusetts, in regular meeting, That we are unalterably opposed to any form of bill or legislation, holding or otherwise, that will permit or authorize the domination, control, or operation of the Boston & Maine Railroad by the New York, New Haven & Hartford Railroad Co.

Be it further resolved, That if some form of legislation be found necessary to protect the interests of the State then such bill before enactment shall bear such provisions and safeguards as shall forever prevent a possible merger or its equivalent of the Boston & Maine Railroad and the New York, New Haven & Hartford Railroad Co.

Be it further resolved, That only by the continuance of the active competition heretofore and now existing between these two great systems can the best interests of the State be assured.

THE HAMPDEN COUNTY TRAFFIC ASSOCIATION.
F. R. LYMAN, *Secretary Executive Committee.*

HAMPDEN COUNTY TRAFFIC ASSOCIATION—LIST OF MEMBERS, MAY 29, 1909.

Jas. F. Carraher, J. Stevens Arms & Tool Co., Chicopee Falls; W. P. Prickett, Barney & Barry, Springfield; W. L. Haskell, Stevens-Duryea Co., Chicopee Falls; P. J. Dowd, Powers Paper Co., Holyoke; F. R. Lyman, Fisk Rubber Co., Chicopee Falls; Geo. L. Rodier, Mittineague Paper Co., Mittineague; Edw. T. Newton, Chemical Paper Co., Holyoke; A. R. Root, American Pad & Paper Co., Holyoke; L. J. Howard, Lamb Knitting Co., Chicopee Falls; E. B. Cooley, Parsons Paper Co., Holyoke; W. S. L. Hawkins, Fisk Manufacturing Co., Springfield; Andrew Gale, Belcher & Taylor Co., Chicopee Falls; J. H. Morrow, A. G. Spaulding & Bros., 126 Nassau Street, New York City; A. L. Appleton, Baush Machine Tool Co., Brightwood; C. A. Edgerton, Southworth Paper Co., Mittineague; G. H. Powers, Holyoke Card & Paper Co., Springfield; L. E. Fay, White & Wyckoff, Holyoke; National Blank Book Co., Holyoke; L. M. Yoerg, Carew Mfg. Co., South Hadley Falls; W. C. Reynolds, The Taylor Burt Co., Holyoke; Geo. H. Trabold, Hampshire Paper Co., South Hadley Falls; W. B. Bell, Brooks Bank Note Co., Springfield; Thos. L. Hisgon, Four Bros. Independent Oil Co., West Springfield; D. L. Shea, Springfield Brewing Co., Springfield; Geo. L. Gray, M. H. Barnett, Springfield; Geo. H. Sharp, Independent Whip Co., Westfield; W. F. Foley, T. Shea, Springfield; H. C. Shaw, Hendee Mfg. Co., Springfield; Essex Pad & Paper Co., Holyoke; Thos. W. Harrington, Crocker, McElwain Co., Holyoke; Geo. E. Whipple, U. S. Whip Co., Westfield; H. T. Whitehouse, Judd Paper Co., Holyoke; C. H. Tenney, Springfield Gas Light Co., Springfield; D. K. Brown, Woronoco Paper Co., Woronoco; Chas. O. Beach, Knox Auto Co., Springfield; Theo. R. Geisel, Liberty Brewing Co., Springfield; H. N. Clark, West Box Co., Springfield; Chas. A. Buckley, Ames Sword Co., Chicopee; Loring Axtell Co., Springfield, Mass.; E. Beebe, N. E. Supply Co., Holyoke.

Now, Mr. Chairman, I suppose these letters are competent, they being signed by the President of the United States.

EXHIBIT A.

APRIL 3, 1912.

The Hon. WILLIAM H. TAFT, *President of the United States,*

White House, Washington, D. C.

MY DEAR MR. PRESIDENT: The last time I talked with you was at the house of Mr. Joseph Walker, Brookline, Mass., then speaker of the house of representatives.

Since that time railroad conditions in New England have become more and more acute and worse than ever. The United States suit started by Roosevelt and dropped by Wickersham has left us in the hands of a complete monopoly in railroad transportation through a holding device known as the Boston Railroad Holding Co. Mr. Wickersham dropped the suit immediately after the holding bill just mentioned had passed.

In the United States suit nothing was mentioned regarding the steamers owned by the New York, New Haven & Hartford Railroad, paralleling the rails between Portland and New York and every important city; from Bridgeport to New York, New Haven to New York, New London to New York, Providence to New York, and Boston to New York.

There is a bill now pending called the Panama Canal bill, reported to the House by the Committee on Interstate and Foreign Commerce, which would prevent this situation. Our merchants and our boards of trades are absolutely opposed to being forced to pay equal rates by one monopoly on the land and sea. Every independent steamship line which has been started to give us relief has been crushed out of existence by competition by various so-called independent lines owned and controlled by the New Haven.

As a lifelong Republican and as an exchairman of the ways and means committee of the State, and a recent candidate for governor of Massachusetts, I beg you to assist us in giving us the necessary relief. The Sherman Act protects us but lack of its enforcement and lack of procedure has placed New England in a helpless position.

If the bill now pending, mentioned above, fathered by Representative Covington, of Maryland, should become law it would, doubtless, assist us, but it seems to me that the way to obtain relief is to enforce the Sherman law and see to it that Mr. Wickersham investigates this situation.

I appreciate the tremendous burdens and labors under which you are now staggering and I hesitate to write you, but this situation in New England is of vital importance and is a festering sore in the minds of our shippers, merchants, and business men, as well as the traveling public. It is a situation which should be dealt with immediately.

Our State laws have been broken as outlined by the unanimous decision of the Supreme Court of Massachusetts. Our United States' laws have been broken, and a

suit started by the United States has been—for no good reason—dropped. It is this kind of thing which has created so many so-called Progressives and has deflected from the Republican party so many good men. It is this kind of thing which goes without notice that causes unrest throughout our country.

In closing I would say that there is scarcely a citizen of New England that does not realize the above facts, and I ask you as the Chief Executive to see to it that the Attorney General's Department take notice of the monopoly in question and see to it that we are given relief.

Yours, very truly,

EXHIBIT B.

THE WHITE HOUSE,

Washington, April 5, 1912.

MY DEAR MR. WHITE: I have yours of April 3. The suit which was dropped by Mr. Wickersham was dropped because there was no ground for its upholding, and the one thing I do not propose to do is to prosecute where there is no ground. I was so advised by Mr. Wickersham.

The only ground for the suit was that the two systems of railroad were so competitive that the acquisition of one by the other constituted a direct, undue restraint on interstate commerce. The facts were that while here and there certain short bits of lines were more or less competitive, particularly a few lines of trolley road, the systems were supplementary to each other and not competitive, and there was no reasonable ground to anticipate a court holding that the purchase of one by the other amounted to an unlawful restraint of trade. Our experience in the merger suit against the Union Pacific and Southern Pacific indicates how clear must be the proof of direct restraint of interstate commerce to secure a favorable judgment from the courts.

The reason why the steamers owned by the New York, New Haven & Hartford Railroad were not made part of that suit was because Mr. Roosevelt had expressly permitted their purchase by the New York & New Haven Road, as I understand it, and this was not included in the bill upon which we were called upon to decide whether or not we should continue the prosecution. Mr. Wickersham has already investigated this matter, and you are entirely wrong in saying it was not dropped for a good reason. The trouble about the gentlemen you speak of, who class themselves as progressives, is that they do not learn all the facts before they reach conclusions.

I have transmitted this letter to Mr. Wickersham for correction before it is forwarded to you.

Sincerely, yours,

WM. H. TAFT.

NORMAN H. WHITE, Esq.,
15 Beacon Street, Boston, Mass.

The President very kindly wrote to me on April 5, 1912, over his own signature, dated "The White House, Washington, April 5, 1912."

MY DEAR MR. WHITE: I have yours of April 3. The suit which was dropped by Mr. Wickersham was dropped because there was no ground for its upholding, and the one thing I do not propose to do is to prosecute where there is no ground. I was so advised by Mr. Wickersham.

The only ground for the suit was that the two systems of railroad were so competitive that the acquisition of one by the other constituted a direct, undue restraint on interstate commerce.

He does not say a word about steamers.

The facts were that while here and there certain short bits of lines were more or less competitive, particularly a few lines of trolley road, the systems were supplementary to each other and not competitive—

Mr. Chairman, steamers parallel the rail. I should think there would be an element of competition there.

and there was no reasonable ground to anticipate a court holding that the purchase of one by the other amounted to an unlawful restraint of trade. Our experience in the merger suit against the Union Pacific and Southern Pacific indicates how clear must be the proof of direct restraint of interstate commerce to secure a favorable judgment from the courts.

The reason why the steamers owned by the New York, New Haven & Hartford Railroad were not made a part of that suit was because Mr. Roosevelt had expressly permitted their purchase by the New York & New Haven Road, as I understand it—

Personally I think the President is wrong in that assertion.

and this was not included in the bill upon which we were called upon to decide whether or not we should continue the prosecution. Mr. Wickersham has already investigated this matter, and you are entirely wrong in saying it was not dropped for a good reason. The trouble about the gentlemen you speak of, who class themselves as progressives, is that they do not learn all the facts before they reach conclusions.

Well. I do not know, Mr. Chairman; I simply refer you to the result of the election.

I have transmitted this letter to Mr. Wickersham for correction before it is forwarded to you.

Sincerely, yours,

WM. H. TAFT.

NORMAN H. WHITE, Esq.,
15 Beacon Street, Boston, Mass.

Therefore, I say, Mr. Chairman, that Mr. Wickersham, who dropped the suit when this letter was written, April 3, had already made up his mind not to do any act, because he virtually instructed the President to write me as he has here, over his own signature.

Mr. HARDWICK. You said you were satisfied personally that Mr. Taft was mistaken when he said the trolleys and steamers were not in this prosecution because Mr. Roosevelt had authorized their acquisition by this system, and therefore could not prosecute for it. Will you give your reason for making that comment as you went along?

Mr. WHITE. First, because as I understand the matter, the steamers on the sea at that time did not constitute a sufficiently complete number to put them in and win the case on.

Mr. HARDWICK. But that was not his statement. His statement was that Mr. Roosevelt had authorized their acquisition, was it not?

Mr. WHITE. I can only give you my answer to that question on hearsay evidence.

Mr. HARDWICK. I should like to hear it.

Mr. WHITE. I should like to simply express my own views, without any further backing up on that point. If you wish to know my views, I have a great deal of confidence in Mr. Roosevelt, and when he tried to sue anything he tried to put in everything he could, and I can not conceive of how he gave instructions such as that as to the steamers owned by the New York, New Haven & Hartford Railroad.

Mr. HARDWICK. That is a matter of opinion alone, is it not?

Mr. WHITE. That is a matter of opinion.

Mr. HARDWICK. The President may have evidence?

Mr. WHITE. He may have the entire evidence.

The CHAIRMAN. What about the Pennsylvania coal law?

Mr. WHITE. Mr. Chairman, to continue, on April 8, 1912, I answered Mr. Taft as follows:

EXHIBIT C.

APRIL 8, 1912.

The Hon. WILLIAM H. TAFT,
President of the United States.
White House, Washington, D. C.

MY DEAR MR. PRESIDENT: I have your esteemed favor of April 5 in re New York, New Haven & Hartford Railroad, and thank you very much for your reply.

I, of course, am not familiar with the facts as to whether Mr. Roosevelt permitted the purchase of steamers which parallel the New Haven's lines to New York between Portland and New York and all intermediate points, but I do say this: That whether

or not Mr. Roosevelt permitted their purchase, the purchase is a fact and the issue is direct and clear.

Eliminating entirely the situation on land, which you contend is debatable and which I say is not, the steamers on the sea paralleling in every instance the railroad is directly obnoxious and contrary to the Sherman Act beyond question.

You and Mr. Wickersham have been in office sufficiently long to take up this matter, and the fact as to whether or not the steamers were in the original suit has little to do with the present illegal situation. I can not think that either your or Mr. Wickersham dispute my contention so far as steamers are concerned, regardless of trolleys and railroads in New England. On the other hand, it seems to me unusual and not good public policy to have one Attorney General under one President press a suit vigorously for more than a year and then have another President and Attorney General drop the suit at the very time when there is a crisis in Massachusetts; in fact, the information that Mr. Wickersham would drop the suit was used as the chief cudgel in debate and before committee hearings to pass the Boston Railroad holding device which is so much disliked throughout the length and breadth of New England.

Again I ask to be pardoned for trespassing on your more than valuable time, but I can assure you that I would be most grateful to hear from you or Mr. Wickersham concerning this whole matter, particularly concerning both your and his views regarding the ownership of steamers which openly and defiantly parallel our railroad system and destroy competition on land and sea between New York City and New England.

Yours, sincerely,

I am still waiting for a reply to that letter.

Mr. LENROOT. In that connection, did you understand that at the time the Attorney General ordered the dismissal of this suit he made the statement giving his reasons for it?

Mr. WHITE. I can not trace that definitely, except in this way: That at a hearing before the railroad committee it was stated that if this holding device was passed that the United States suit would be dropped, and Gov. Draper told me that he had every reason to believe that if his holding device bill was passed that the United States suit would be dropped, and the fact was that after the holding bill was passed the United States suit was dropped.

Mr. LENROOT. I notice in this document you have referred to the committee, to what purports to be quoted, a statement of the Attorney General, and I did not know whether you knew whether it was authentic or not.

Mr. WHITE. I do not know.

Mr. LENROOT. If it is, I suggest you put it in the record in connection with what you have just read.

Mr. WHITE. I remember this. It was the Department of Justice stopped the suit.

Mr. LENROOT. Yes.

Mr. WHITE. I should like to have that put in the record; in fact, I would like this whole thing put in the record, if it is not too long.

The CHAIRMAN. It is already printed in the Congressional Record, and I hardly think it is necessary to repeat it.

Mr. WHITE. Then in this special record I should like to have this inserted.

The CHAIRMAN. There is no objection to that extract.

Mr. WHITE (reading):

The Attorney General to-day directed the dismissal of the Government's suit against the New Haven and the Boston & Maine Railroad and others for violating the antitrust law, issuing a statement in which he says:

"The Attorney General received to-day a certified copy of the act passed by the Legislature of Massachusetts and approved last Friday by the governor of that State creating the Boston Railroad Holding Co. This act authorizes the new corporation created under it to acquire and hold all or any part of the stock and bonds of the

Boston & Maine Railroad Co., and further authorizes any railroad company theretofore incorporated under the laws of Massachusetts to acquire and hold the stock and bonds of the Boston Holding Co.

"In view of the fact that the suit of the United States now pending against the New Haven and Boston & Maine Railroad companies for a violation of the antitrust act rests almost entirely upon a claim that these companies had already consolidated by means of stock ownership, and *since the community most directly affected is the State of Massachusetts, whose laws now expressly authorize such consolidation, the Attorney General has determined to dismiss the Government's action.*

"In that action the further complaint was made that the New Haven road had acquired a number of trolley lines in Massachusetts and adjoining States; and that this was a combination in restraint of interstate commerce. Since the Government's suit was determined upon, however, the Supreme Judicial Court of Massachusetts, in a case involving the right of the New Haven road to acquire trolley properties in Massachusetts, has decided that the railroad company has no such power, and that company *has been parting with such trolley properties.* Upon this question the Attorney General is convinced that whatever may have been the merit of the claim *when the suit was begun*, there is not now in this case any such element of competition in interstate commerce by reason of such ownership of trolley lines as would justify such a further prosecution of the action."

The Attorney General has directed that the case be dismissed at once.

By 1908 the New Haven Railroad had acquired 1,500 trolley lines, practically all Connecticut trolleys, practically all the Rhode Island and nearly 600 miles of trolleys in Massachusetts. They had the Bridgeport line, the New England line, the Hartford line, the New England to Portland, the Boston to Philadelphia; they had the control of the Merchants & Miners Transportation Co., which runs from Boston to Philadelphia, also the line from Boston to Norfolk; the Stonington line, the Joy line, and the Fall River line.

Mr. Chairman, we have citizens in Massachusetts who would show you in an intricate but perfectly clear manner how the New Haven road set out to crush any independent steamship line. I have heard the story from an eminent citizen of Massachusetts a great many times, and if this investigation goes on I am sure Mr. Louis D. Brandeis would give you very excellent and interesting information on that point. The same smile, Mr. Chairman, was given by the New Haven directors when it was called to their attention that they were breaking the law of Massachusetts; it could not be. I simply wish to call attention to the fact that they were. I also wish to suggest, and to have placed in the record, because it is a short statement, a speech Louis D. Brandeis delivered February 11, 1908, before the New England Drygoods Association on this question, which outlined at that time what has happened in New England.

Now, Mr. Chairman, at one time, after the trolleys were given up, we had a peculiar situation; the supreme court held the trolleys to be given up directly or indirectly. I do not want to go through this, but I should like to leave this for your consideration, showing the trolleys as they are held. This shows the ownership of the trolleys after the supreme court had ordered them given up.

Mr. POU. Will you pardon me for a moment? This matter concerning the trolleys was a matter that could have been dealt with by the State of Massachusetts?

Mr. WHITE. Both by the State and National Government. They were interstate trolleys.

Mr. POU. They were interstate trolleys, were they?

Mr. WHITE. They were all embodied in the suit. Those trolleys are all embodied in the original suit. The Berkshire Street Railway

Co. owned or controlled 16,288 shares. I do not know how they are held now, but in 1910 it was held by the New England Investment & Security Co., in this manner: The New England Investment & Security Co., in turn, being held by 1,000 shares of common stock, 100 shares in the hands of Mr. James B. Brady, 200 shares by Mr. R. S. Clark, 150 shares by Mr. L. E. Harmes, 250 shares by S. Hemingway, 100 shares by Mr. H. L. Higginson, one of the brokers who put the Boston & New Haven Railroad through, and 100 shares by Mr. E. D. Redfield, and 100 shares by Mr. D. G. Wing, president of the First National Bank.

Those 1,000 shares of common stock of this New England Security Co. controlled the New England Investment & Security Co., and the New England Investment & Security Co. owned the Berkshire Street Railway Co., having 16,281 shares, of which L. Candee held 1 share, Henry W. Ely 1 share, Ralph D. Gillett 1 share, J. T. Harmer 1 share, Clinton J. Richmond 1 share, L. S. Storrs 1 share, and Bentley W. Warren 1 share; Mr. Warren, I think, was counsel for the New Haven Railroad, but out of 16,289 shares the New England Investment & Security Co. controlled 16,281 shares, and so on, Mr. Chairman, down the line with these various trolleys. How those shares have been shifted since that time I do not know, but I believe that this committee will be able to show conclusively and effectually that the interest of those trolleys is still held by the New Haven road, contrary to the unanimous decision of the Supreme Court of Massachusetts.

Now, Mr. Chairman, while Providence has had her trouble with the Grand Trunk we in Boston believe that the Grand Trunk was a great relief, or one of the methods of relief which we might receive, and I have here statements from our railroad committee showing the kind of citizens that appeared before the Massachusetts Legislature in regard to the Grand Trunk bill, and their statements in digest form in print. They are as follows: Hon. John F. Fitzgerald, mayor of Boston; John J. Attridge, of the Boston city council; W. S. Schuster, of the governor's council; R. S. Bauer, of the Essex County Board of Trade; Norman H. White, of Brookline; D. F. Lawrence, general freight agent of the Central Vermont Railroad; E. H. Vaughan, city solicitor of Worcester, Mass.; H. H. O'Rourke, alderman of Worcester, Mass.; Hon. William S. McNary, port of Boston director and former United States Congressman from Massachusetts; Charles T. Tatman, of Worcester, Mass.; A. M. Child, secretary Haverhill, Mass., Board of Trade; Thomas H. Shepard of Boston, for the export lumber trade; Andrew A. Casassa, chairman of the board of selectmen of Revere; Hon. Eben S. Stevens, representing the Business Men's Association of Webster and Dudley; Robert C. King, member of the United States Leather Co. and member of the chamber of commerce; Alexis P. Boyer, jr., chairman of the board of selectmen of Southbridge and representing the Board of Trade and Commercial Club of Southbridge.

We had a most representative and influential body of men appearing in favor of the Grand Trunk coming to Boston. The Grand Trunk bill, passed by the Massachusetts Legislature last year, was a generous and a liberal one.

I can not speak of my own knowledge as to why the Grand Trunk project was stopped, but I do say that the Grand Trunk would give

us a very seasonable relief. Aside from the relief, Mr. Chairman, if you will view New England geographically you will find we are shoved up into the northeastern corner of the continent. Our port of Boston is nearer to the port of Liverpool than any other port in the northeast, except Portland, which is nearer Liverpool than Boston is by about 50 miles.

I do not wish to burden the committee, but I have here various documents which will show the business that New England has with Canada. Briefly, Mr Chairman, the Canadian traffic pours down through the Lorenson Valley, and from Montreal it goes through from Halifax and St. John below from Montreal. Halifax is some 700 miles over the Intercolonial road, I think, and Boston is the most logical, reasonable, and the nearest point for that great traffic of Canada, and of the great undeveloped Northwest, to come down and dump their freight into Boston. I have a statement on that which would take a very great while to read and would trespass on the time of the committee.

The CHAIRMAN. We have a number of gentlemen who wish to be heard, and if you desire to insert the statement, and it is a part of your argument, the committee will have no objection to it, if it bears on the question of competition and this commerce you speak of coming from Canada down into New England if the new road were built. Does it bear on that subject?

Mr. WHITE. Absolutely, in miles and grades from city to city.

The CHAIRMAN. I see no objection to it being inserted in the record.

EXHIBIT Z.

THE DELIVERY OF NEW ENGLAND'S TRANSPORTATION TO A GIGANTIC MONOPOLY— HOW IT WAS ACCOMPLISHED AND POSSIBLE REMEDIES.

At the time of the organization of the New York, New Haven & Hartford Railroad way back in the year 1872, our citizens will remember that New England had many independent steam railroads, doing both an interstate and an intrastate business. One after another, either by lease or purchase, these independent lines were acquired, until in the year 1904 New England found herself in the hands of three big systems, each controlled and operated independently.

The New Haven road had its main line to New York and operated more than 2,000 miles of rails in Connecticut and Rhode Island.

The Boston & Maine road, running to Boston and Portland, also extended its lines into Maine, New Hampshire, Vermont, and northern and western Massachusetts, operating about 2,300 miles of road.

The Boston & Albany, some 304 miles long, ran through central Massachusetts westward to New York State. These were the three systems which gave New England, and particularly Massachusetts and the port of Boston, three strong and competing lines to the Great West. All of these roads were of tremendous value and importance to our commerce and trade. There was no demand for further consolidation either by our shippers or our traveling public. The New Haven and the Boston & Maine were competitors for business in our principal cities and many of our towns such as Boston, Lowell, Fitchburg, Marlboro, Worcester, Springfield, Holyoke, and Northampton, and more than 20 other places of greater or lesser importance. But the New Haven was not satisfied with this situation and decided to create a complete monopoly of transportation throughout the length and breadth of the New England States. From the first the New Haven had been carrying on a most aggressive campaign to control the transportation of New England, and by the year 1904 had succeeded by many devious methods in acquiring all the steam railroads in the State of Connecticut except 58 miles, all the steam railroads in Rhode Island except 25 miles, and all the steam railroads in Massachusetts except the Boston & Maine, the Boston & Albany, the New London & Northern (Grand Trunk), and some five or six local lines.

About 1892 electric interurban trolley roads began to be developed in New England and these roads soon became a new and important factor in interstate and intrastate

business. Most of our important cities and towns, particularly in southern New England, felt the commercial value and the relief given by these interurban electric systems.

In the annual report of the stockholders of the New Haven road in the year 1893 we find the following statement: "The rapid application of electricity as a motive power upon the highways brings attention of railroad managers to the competition thereby created with existing steam roads."

Again in 1901 the New Haven, by a vote of its directors, authorized a committee composed of Messrs. Taft and Brush "to consider and act with full powers as to the plans for uniting into one system, operated by a corporation to be controlled by this company (New Haven), certain lines of electric railway constructed and about to be constructed." Acting under these instructions the above committee did not wait long. It is of more than passing interest to see how the huge New Haven obtained trolley acquisitions.

The committee at once formed a corporation known as the Worcester & Connecticut Eastern Railroad, and the New Haven Railroad "advanced from time to time under the direction of the committee funds for the construction and extension of the lines, and bonds were issued and the various lines so extended and connected * * *. The company has received and now holds a majority of the stock of the Worcester & Connecticut Eastern road, to wit, 2,501 shares, which gives the company (New Haven) control of the property." This quotation is taken from the report of the committee in October, 1903, and this may be called the first step in the trolley monopoly. The next year, in 1904, the New Haven obtained a decree to change the name of this new trolley company to the Consolidated Railway Co., and it immediately increased the capital of the company from one half a million dollars to ten million dollars. Money to do business to be paid by the public was necessary, this was the second step. Of course the New Haven owned and controlled the stock and elected the officers and directors, all of whom were New Haven directors.

The trolley campaign now went merrily on. It was decided to control the interurban of New England. One by one, by any means whatsoever, they all fell into the lap of the New Haven control. Competition mentioned in the annual report must cease. So stealthily and steadfastly one by one the Connecticut trolleys were taken over and hand in hand with this the Consolidated Railway Co. issued bonds to pay for them while the New Haven road guaranteed interest as the merging was going on day after day. Thus, briefly, by May 31, 1907, the New Haven had gobbled up more than 500 miles of the 600 miles of trolleys in Connecticut, and for a while, in view of public protest in that State, the New Haven rested.

While this was going on a new corporation was born in Rhode Island, known as the Rhode Island Co., and strangely enough it had the corporate powers to unite under a single management the gas, electric light, and street-railway business of Providence, and also to control the principal urban and interurban electric lines.

This was the beginning of the trolley campaign in Rhode Island. This corporation could not do the thing alone successfully, so the New Haven organized the Rhode Island Securities Co., a brand new New Jersey corporation, and this friend from New Jersey immediately acquired the stock interest of the recently created Rhode Island Co. Four years later, in 1907, in order to completely suppress competition in Rhode Island trolleys, the New Haven obtained a decree changing the name of the company known as the New England Loan and Trust Co. to the Providence Securities Co., with a baby capital of \$50,000. The New Haven owned all of this \$50,000 worth of stock. This bright little Providence Securities Co. had a splendid charter, created especially for New Haven purposes; i. e., to "buy and sell all kinds of securities, to act as trustee, or as a financial or other agent for any corporation and in their behalf to issue registered and countersigned certificates of stock, bonds, and other evidences of indebtedness." Here was another instrument for the Rhode Island campaign.

What happened? The Providence Securities Co. with its \$50,000 worth of capital immediately issued \$20,000,000 worth of 4 per cent, 50-year bonds and goes forth to sell these bonds and then purchased the securities of the Rhode Island Securities Co., which in turn controlled the much-desired gas, electric light and street railways of Providence and the principal urban and interurban lines of Rhode Island. After this was done the Rhode Island Securities Co. was dissolved.

Business in Connecticut during this time had not been particularly lagging, for the Consolidated Railway Co. had incidentally picked up the entire capital stock of \$500,000 of the New York & Stamford Railroad, running from Point Chester to New Rochelle, N. Y., and connecting up with the Connecticut monopoly. Rhode Island and Connecticut awoke to find themselves completely in the hands of one transportation system. Having made a conquest of two of our New England States with its relentless methods, the New Haven turned its attention to Massachusetts.

The New Haven knew that her laws were hard and fast. The officers of the company immediately sought the advice of eminent counsel and after receiving such advice they made up their minds that they would take a chance, and proceeded on their campaign to buy Massachusetts trolleys contrary to the laws of the State. Our laws stated distinctly and clearly that no transportation company could buy the stock of any other corporation without first obtaining legislative permission. What regard was paid to this law we shall see. We shall also see what promises were made and what promises were broken, and we shall see clearly the delivery of Massachusetts step by step.

Besides the law which stated clearly that no company could buy stock in any other without legislative permission, there was also an equally clear law which said that no transportation company should guarantee the debts of any other company without a similar permission. Both of these laws were created to protect the public, to protect the stockholders, and to protect the investors in our savings institutions. Rhode Island and Connecticut did not have such protection, but doubtless if they had had their laws would also have been broken. Our citizens who were interested in the proposed schemes of the New Haven were safe; no men or corporation would dare attempt to take over the Boston & Maine system or our trolleys, in defiance of Massachusetts law. We felt sure that our interurban could not be bought against our will, and that the Boston & Maine Railroad, one of the three big systems, could not be purchased without permission. Our savings banks, the best and proudest in the world, could not buy securities of railroads unless they had paid adequate dividends for a reasonable period of time. Massachusetts rested supposedly safe, secure, and people said that Connecticut might be delivered, but Massachusetts never.

But with these laws staring them in the face, upon the advice of eminent counsel, quietly, one after another our electric lines, parallel and competing with the New Haven lines, were taken, and adding these takings they created a great network of trolleys more than 500 miles in length. Public indignation, little by little, became aroused, especially when, in 1905, a peculiar chain of circumstances brought the matter to public attention. In 1905 the Boston & Maine Railroad felt the oppression of the New Haven trolleys, thus taken against the law. These trolleys competed with the Boston & Maine system, and immediately the Boston & Maine road went to the legislature and asked permission that they might purchase trolleys legally. Then there occurred a most peculiar situation. The New Haven, with its lobby, backed by powerful interests, proceeded to kill the request of the Boston & Maine to buy trolleys legally, while the New Haven itself was buying them illegally, and this same lobby to-day is trying to kill the bill which will permit the entrance of the Grand Trunk system into Boston.

The Boston & Maine's request to buy trolleys was killed, and Gov. Guild, as a result, on June 23, 1906, sent the following message to the legislature:

"I congratulate you on the defeat of a measure that would have sanctioned the possible consolidation of all transportation in Massachusetts under the control of a single corporation. The present railroad situation, however, is most unjust and inequitable. Our steam railroad system is forbidden to meet the competition of electric street car lines by purchase or control of their stock, but another, controlled by men who are not citizens of Massachusetts, is not only permitted to exercise that privilege, but is exerting it to-day to such an extent that healthy competition in western Massachusetts is already throttled.

"Slowly, surely, the control of our own railroads, the control of the passage to market of every Massachusetts product, the control of the transportation to and from his work of every Massachusetts citizen is passing from our hands to those of aliens.

"I therefore urge upon you with all the strength that is in me the passage of some legislation giving relief from this grave injustice. Let Massachusetts announce that transportation within her borders is in the future to be controlled by the people of Massachusetts, and not by men beyond the reach of her law and the inspiration of her ideals."

Public attention was now centered on the New Haven system, and little by little, facts began to leak out. Our citizens learned that 500 out of 600 miles of trolley had been taken contrary to law, and immediately the attorney general of the State began suit against the New Haven road. Mr. Mellen, president of the New Haven road, seemed at that time considerably disturbed over the situation then confronting him, and appearing before the legislature he urged that no hasty action should be taken and advised that the State should wait for the decision of the suit to be handed down from the Supreme Court of Massachusetts. He ordered Mr. Charles F. Choate, jr., the counsel for the New Haven road, to send the following letter to the Hon. Joseph Walker, then a member of the railroad committee. This letter was a solemn pledge given June 27, 1906, that the New Haven would not enter upon further acquisitions in Massachusetts until the trolley question had been settled.

Here is the letter:

"JUNE 27, 1906.

"Representative JOSEPH WALKER, ESQ.

"MY DEAR MR. WALKER: I have communicated with Mr. Mellen by telephone and got from him the following:

"Mr. Mellen authorized Mr. Choate to state to the legislature that they will not enter upon further acquisitions in Massachusetts, other than those already contracted for, or build any trolley lines excepting such as are now under actual construction, until such times as the merger question has been settled. Mr. Mellen is willing if the committee desires it, to furnish a list of properties already contracted for or under construction, to avoid any further misunderstanding."

"Yours, truly,

"CHARLES F. CHOATE, JR."

The legislature adjourned. No hasty legislation occurred. The list mentioned was furnished. A truce existed; the State would wait. The attorney general was pressing his suit. But to what avail were pledges when the complete monopoly was to be created in spite of the pending suit, in spite of the written pledge, in spite of the warning received, in spite of the list given, the New Haven immediately purchased four more large trolley systems; and suddenly it was learned that the New Haven had planned a deliberate campaign to buy up the Boston & Maine road, and it did buy 40 per cent of the stock of its big rival?

Where was the law? Where was the promise? Were they forgotten? Was the attorney general's suit forgotten? Yes; all were forgotten, and Massachusetts had lost a big competitive system; she had been betrayed and her laws had been violated.

The next year, in 1907, upon the return of the legislature, in order to appease the public of the State a sop was thrown to the public and a bill was passed which said that the New Haven shall not buy any more stock of the Boston & Maine until July 1, 1908. In May, 1908, when the next legislature was in session the much looked for decision from the supreme court was handed down. It was unanimously against the New Haven and they were ordered to give up their trolley holdings. Nothing was said about the Boston & Maine because this purchase was made while the trolley decision was pending. As soon as this decision was handed down the New Haven gave up its trolleys, putting them in the hands of the New England Investment & Securities Co., which was in turn controlled by the New Haven. It may be well in passing to note that on May 31, 1907, the Consolidated Railway Co. of Connecticut merged itself in and with the New Haven Railroad of Connecticut; given back its old name and becoming then and there a new corporation with tremendous powers to own trolleys, gas, properties, water power, privileges, etc.

Matters had become so acute in Massachusetts that the Federal Government proceeded to interest itself, and in 1908 President Roosevelt ordered Attorney General Bonaparte to bring suit against the New Haven for violation of the Federal statutes. This suit under the Sherman antitrust law was vigorously prosecuted by the Roosevelt administration. Every effort was made by the New Haven for delay. The laws of Massachusetts were violated, the laws of the United States were broken, and besides the New Haven had purchased all the steamers in our coastwise trade between Portland and New York and all intermediate points. Strangely enough the steamers were not mentioned in the United States suit although they clearly and directly parallel the lines of the New Haven. The suit begun by the Government May 28, 1908, was a petition signed by District Attorney Asa P. French, of Boston, Attorney General Bonaparte and Assistant District Attorney Purdy, in the case of the United States of America, complainant, against the New York, New Haven & Hartford Railroad Co., Boston & Maine Railroad, Consolidated Railway Co., and the Providence Securities Co., defendants.

But even the suit of the United States Government pending did not seem to deter the New Haven from attempting to get the Massachusetts Legislature to legalize its Boston & Maine holdings. In 1908 the New Haven tried to put through a bill which would give the road a legal title to the Boston & Maine stock, permitting the railroad commission to vote the stock for them. This bill, after a tremendous conflict, was killed and the citizens of Massachusetts now were obliged to place an abiding faith in the laws of the United States and the enforcement thereof.

This, briefly, was the railroad situation when President Taft came into office March 4, 1909. Massachusetts was willing to let the United States Government take care of the Massachusetts situation under United States law, but suddenly during the legislative session of 1909 Gov. Draper sent to the legislature a special message asking for the creation of the Boston Railroad Holding Co., to which Mr. Mellen had agreed. Mr. Mellen had been several times in Washington and had several times consulted with Gov. Draper, and it was openly stated on the floor of the House that if this hold-

ing device was created the wheels of justice of the United States Government would cease pressing the New Haven suit.

In spite of public protest the Boston Railroad Holding Co. became law allowing the New Haven to control the holding device, which in turn could buy at will all the stock, bonds, and debts of its rival, the Boston & Maine Railroad. The protests of boards of trades, merchants, labor organizations, were of no avail. The steam roller and political machinery of the party in power put through the Boston Railroad Holding Co. bill, giving the New Haven its much-sought-for opportunity to complete its purchases, contrary to the laws of the United States with the United States suit being vigorously pressed. Argument was of no avail, debate was not to be weighed in the balance, facts and conditions were worse than useless; orders had been given from sources high up that the Boston Railroad Holding Co. should become law, and thus Massachusetts delivered to the New Haven, as a reward of merit, its big competitor, the Boston & Maine. People could not believe their own ears.

The holding bill became a law June 18, 1909, and the new Attorney General of the United States (Mr. Wickersham), without any good reason, dropped the United States suit on June 26, 1909. Massachusetts stood helpless, her laws broken, dominated by a monopoly on land and sea, uncontrollable and established contrary to the laws of our State and created while the Department of Justice at Washington was pressing its suit. Such a travesty of justice has never before besmirched the pages of Massachusetts history. We had been delivered! Accordingly, all the shares of the Boston & Maine which had been secreted in Connecticut, held by J. L. Billard, were now brought back with safety and dumped into the holding company, only to be added to by more shares which the holding company immediately proceeded to buy. This is the story of what happened to New England.

The issue of more than seventy million dollars worth of stock of the New Haven, contrary to the laws of Massachusetts, was perhaps of less importance. In this case again the legislature came to the rescue and delegated its powers to a commission to validate these illegal securities. What is the situation to-day? The governor of the Commonwealth has just recommended that the holding company be dissolved and that the New Haven take over the Boston & Maine direct. Gov. Draper was responsible for the creation of the holding company and Gov. Foss will probably be responsible for the complete taking over directly of the Boston & Maine by the New Haven. Unable to earn its dividends, carrying a huge towering capitalization, indorsers for millions of obligations which do not concern steam railroads, an offender against our laws with permission in other States to go into many lines of human endeavor, we find knocking at our door with its great power the New Haven, ready to take over the trolleys which the Supreme Court had made them give up, and also consummate complete taking over of the Boston & Maine Railroad.

Bold, unflinching, the New Haven tells us: "We will kill the bill to allow the Grand Trunk to enter Boston. We have the complete field, monopoly is ours. We will allow no competition on land or sea; the Government of the United States is listless, and New England has been delivered to us for our development and our development alone."

Let us examine the Grand Trunk situation:

The question whether or not the Grand Trunk Railroad shall enter the port of Boston is a question upon which largely depends our material welfare, our commercial business prosperity, and our future position in New England in the Nation. It is, perhaps, therefore, well, inasmuch as New England is such an important factor in the welfare of the Nation, to consider this subject, not only from a local, but a national standpoint. We must view the question to a marked degree from the viewpoint of our relations with Canada and the British Empire. We must consider our general British and Canadian trade relations. It is clear to the people of New England that it is a poor time to "split hairs." Our relations in the past with one transportation monopoly do not warrant us now to "split hairs" with other transportation interests.

It should be our purpose to say to another road desiring to enter Boston facing the monopoly in question, "We greet you with open arms and we shall be grateful for what increase in trade and commerce and competitive service you may bring us." Instead of trying to find methods and ways of injuring ourselves by defeating the entrance of a great railroad we should say, "We will be as liberal, at least, with you who ask to do things legally as we have been with those in the past who have broken our laws." I say this especially in view of the fact that we are also in no position to forget the great Empire of which the Grand Trunk Railroad is a part, and, as stated above, we must not forget our great trade relations with the Dominion of Canada and the British Empire at the present time.

These reactionaries who in the public prints are calling these gentlemen who come before us "confidence men," "press agents," "promise makers," "representatives

of an octopus with 5,000 miles of tentacles," and those who call the Grand Trunk a "little one-horse railroad" are but mouthpieces for the monopoly in whose grasp we find ourselves, and I maintain it ill becomes Massachusetts to make fun of these British business men who come before us at our own request, expressed by a unanimous desire of the Massachusetts Legislature.

These gentlemen who would decry the Grand Trunk's entrance forget or are ignorant or are actuated by selfish motives. Let us see some of our commercial relations with Canada and the Empire of which she is a part. Let us see if it is not necessary to stimulate and foster such relations by every legitimate means. This, I say, is a critical juncture with us. It is a time in our history, delicate and pregnant, and can not be lightly dealt with. I do not wish to antagonize or create prejudices, but I do wish to put forth some facts and figures so that they may not be longer ignored and will be fully recognized and acted upon for our own welfare and development.

It seems to be the custom among certain of our people to decry anything British or Canadian. These attacks are coming now more than ever, instituted by a hostile press controlled or influenced by the railroad in our midst, with its many fingered hands on the very throat of our commerce, using its vast influence in our State and national politics, similar to the control in Connecticut and New Hampshire, using its influence on men high up in the machinery of both of our political parties.

The fundamental question is whether we will listen to the voice of these gentlemen who have broken our laws, or whether we will act in favor of the majority of our population now held in a monopoly established against our will. Thus it is easy to account for the attitude of certain prominent journals. It is also easy to understand the degree of resentment which they have manifested.

Canada is her own mistress; she is mistress of her own domestic politics. She decides for herself and she has the intelligence to decide. Her Government has an intimate supervision, in some cases almost the control, of her transportation lines, both by rail and by water. Shall we play the part of the fool when we are offered bread? Shall we listen to the influences mentioned or shall we listen to the voice of our commercial bodies, boards of trade, and the voice of last year's legislature?

We must remember the great Empire State of Ontario, we must remember New Brunswick, we must remember Manitoba and also that great undeveloped and resourceful country, British Columbia. We want connections and intimate relations with this loyal, energetic and persistent Canadian Empire. We must not forget Canada's great commercial situation and the countless millions from the mother country which are constantly pouring into this Dominion. We must not forget our opportunities and our future progress and prosperity. We must attempt to revive those great mercantile and maritime pursuits which in years past made the brightest page in Boston's commercial history, and make a supreme effort to ally forces as far as possible and reasonable with the Dominion of Canada and the British Empire.

Let us see of what our trade with this Empire consists to-day. First, more than half of our entire export trade is with the British Empire, and this particularly applies to Boston. The great bulk of Boston's export trade is to Great Britain and Ireland. The Dominion of Canada is now building up a great granary keystone and a world thoroughfare for the British Empire comprising one-third the population of the earth, in all of which we can share if we will.

I do not hesitate to predict, basing such prediction on competent authorities, that the commerce of Canada with the United Kingdom, now more than \$250,000,000 annually, will, within 10 years, be more than 5 times that amount. This will be due fundamentally to the great increase in the export of Canadian products to British markets. We must not forget the enormous and increasing demands for grain and food made by Great Britain. We must not forget the increasing demand for raw materials and crude manufactures, and we must not forget that more and more goods will be interchanged between the Dominion and the British Empire in the future. This trade and commerce we wish to have as much of as possible, and it should be our aim, especially in Massachusetts and New England, to handle and forward as large a share of the present and future traffic going and coming, as may be allowed. With anything like discreet and intelligent management our share can not help being of great and growing importance.

I maintain that the Dominion of Canada, actuated by the minds of shrewd engineers and capable financiers, has only begun to lay a vast foundation. They have been preparing a "plant," and are backed up by Federal and provincial authorities to do more than could otherwise be expected of them. This line of human endeavor has gone into great and tremendous enterprises, including artificial waterways, the best in the world for transcontinental transportation. The Dominion is banded by steel rails, with trunk lines and local railways. It has improved its lakes and rivers and seaboard ports.

The Canadians have no fear in developing their tremendous plant, backed up with limitless natural wealth, with fields, forest, sea, and mines, and stimulated by great maritime and commercial opportunities, all of which lie knocking at their door. Would the great financiers of London, would the capitalists of Europe furnish hundreds of millions for these enterprises if they did not see in the future a huge possible development? Do they not see vast grain plains, only one-third of Canada; more than 150,000,000 of acres capable of producing 3,000,000,000 bushels of the best grain? They see the tens of thousands of agricultural immigrants, many of them pouring in over the boundary line of the United States, building up their homes to further create wealth and prosperity. We see this sister country or ours with these great advantages, following closely our example, building up a vast, rich, and free country upon our very borders. Is this of no interest to us? Shall we call these people visionary; shall we call their enterprises and railroads jokes? Is it good public policy for our press to laugh at the Grand Trunk lines, 5,000 miles long, with their arms extending in the lines of every known human endeavor? Shall we say, "We want no share of your trade, and you shall have none of ours"? "We would rather have you distinctly away from us; we are sufficient unto ourselves;" while we forget that the great bulk of our trade is already with the Empire which is fostering these enterprises in Canada, which in reality we ourselves are anxious to obtain and share.

You will find in our State house selfish men, representing an institution created against our will and our law, who laugh at these suggestions, and will raise the cry that we want nothing of Canada and that the British Empire is of little consequence.

In the year 1911 the United States trade with Canada reached the enormous sum of four hundred millions of dollars. Of this one hundred millions were imports; three hundred millions were exports. In 1909 our imports with Canada were eighty-seven millions and our exports one hundred and eighty-eight millions. In 1910 our imports were one hundred and three millions and our exports one hundred and eighty-eight millions.

These are Government figures and might easily be increased, for they are most conservative. Thus, the people of Massachusetts will see that so far as a national proposition is concerned the United States can ill afford to allow Massachusetts to jeer at and make fun of our British neighbor.

Besides this huge volume of trade there is what I am pleased to call invisible trade, which does not show; I mean goods carried to and from this country by individuals.

Every now and then we hear some agitation to increase our trade with the west coast of South America and obtain a greater percentage there. Rather let us stimulate our trade with the Dominion of Canada and the British Empire, which is nearer and easier to reach, and whose products are as good and nearer than those of our South American friends.

Let us, therefore, maintain a sensible attitude toward the Grand Trunk and the influences and people that are behind it. The quality of our exports to Canada in 1911, the three hundred millions above mentioned, perhaps would be of interest to you. Two hundred millions were straight American manufactures, while the rest, one hundred millions, was for the most part products of our fields, mines, and forests, including fruits, berries, vegetables, grass seed, meats, provisions, eggs, oysters, fine lumbers, lumber, coal, cotton, and tobacco. Will the Legislature of Massachusetts forget these exports; will we try to find "slightest reasons" for attempting to prevent an increase in this trade? Do Boston and the State, which have both embarked upon a venture involving millions for our port, wish to prevent the entry of a road which will give us an easy and speedy route to increase our trade? I trust not, and I trust that these figures will mean something.

But the New Haven road, for fear it might in some way meet with competition somewhere, selfish to the last degree, powerful in our politics, having broken our laws, with astute attorneys and keen politicians backed up by machine influences and machine press, would cross these figures from your memory, that they, bearing the huge burden of a towering capitalization, might still be able to pay the dividends they have for years been unable to earn.

I am a protectionist, but I have little patience with the high protectionists who forget this huge balance of trade, \$200,000,000 in the last year and \$683,000,000 in the last 10 years, with no sign whatsoever of diminution. This trade is with Canada alone. Neither have I any patience with those who forget our great trade with Great Britain, which is essentially part of this proposition, for Canada gets most of her money to pay this balance due us from the mother country. But Great Britain's balance alone to us was \$289,000,000 last year and more than three and one-half billions in the last 10 years, amounting from both countries to a sum almost incalculable. Again, going back to 1890 to 1901, our balance during that period was \$333,000,000, making the total balance since 1890 over a billion of dollars, and this huge sum Canada has paid us in cash, the most part of which is gotten from England. Our trade with the United

Kingdom from 1892 to 1901 was more than four billions of dollars paid in gold, which was the fundamental means of pulling us through the depression of the middle nineties. And yet with all these glaring truths we have in our midst intelligent sons of Massachusetts willfully ignoring them.

We have the "standpatters" also, always ready to "twist the lion's tail" "for revenue only," or, more honestly speaking, for obtaining more tariff protection for their own pockets. These are the sons of Massachusetts who are sneering at the Grand Trunk Railroad.

It is true that England is now in the throes of a political agitation. It is true that she is a free trade country; but, nevertheless, in the calendar year 1911 her total trade was considerably in excess of the year before of any in her history and amounted to £1,138,000,000, more than \$6,000,000,000, in total—her imports \$3,318,000,000 and her exports \$2,715,000,000. Comparing these figures with the year 1903 we find that her exports in that year were only half in amount of the exports of last year. These figures speak for themselves. And this great increase both in exports and imports has occurred at the very moment of political and social agitation almost amounting at times to revolution. The reactionaries at this time prophesied that business would be ruined, at least "at home." How flat this prophecy has fallen is shown by the increase just quoted.

And now I come to our trade with the British Empire as a whole, which challenges the attention of every intelligent citizen and everyone who has regard for the prosperity of this country and this State, and it is shown that it is wise for us to make the best possible arrangements in transportation with a Dominion which is fostered and engineered by the best financiers of the entire British Empire.

The total trade of the United States for the year 1911, export and import, was more than \$3,626,000,000. Our total business with the British Empire was \$1,431,000,000. Our total exports for 1910 were \$2,093,000,000, and to the British Empire they were \$953,000,000. In 1909 our total foreign trade was \$3,204,000,000; with the British Empire it was \$1,247,000,000. Our total exports were \$1,728,000,000, of which Great Britain took \$790,000,000, or 47 per cent, in 1909 and more than 47 per cent in 1911. Going back to 1900 our total exports were \$1,395,000,000; the British Empire took of this six hundred and seventy and one-half millions; this was about one-half 12 years ago, and thus you will see that with our trade with Great Britain, always the best half of our export trade, is constantly increasing in proportion to our trade growth.

I have thus far attempted to show that our relations with Canada are such, both regarding exports and imports, that the Grand Trunk proposition should be considered seriously. I shall not attempt to show the almost universal public demand for the entrance of the Grand Trunk into Boston; but it is my firm belief, having discussed this question for at least a period of five years, that there is a universal demand from all men—the traveling public, merchants and shippers alike—to see that this road shall enter the port of Boston.

Personally I would urge that the legal and public name of the New England portion's name of the road consolidated with one line and corporation, as it ought to be, should be the Boston & Montreal Railroad. Every great line which has Boston for a metropolitan terminal must recognize Boston in its very name. We have lost prestige in railroad terminology. An outsider would naturally think that this big monogram that has gobbled up New England's transportation interests meant that Boston was a suburb of Hartford or New Haven. How long the Boston & Maine will be allowed to retain its name is even now a question. Boston & Providence; Boston, Concord & Montreal; Boston, Clinton & Fitchburg: these names are gone, to what advantage to us?

The Boston Holding Co., which gave the New Haven the Boston & Maine, made no requirements for electrification, although the president of the New Haven stated that he would start electrification within two years from the date of the passage of the Boston Railroad Holding Co. bill.

I do not believe that Mr. Fitzhugh, who represents the Grand Trunk, desires to make any false pretenses or promises to our citizens, and it does not seem fair to me that in order to render us a great service he should be burdened at the start with electrification in our suburban districts, such electrification being, in all probability, a tremendous burden and expense to the incoming road.

There are 3,500 miles of the Grand Trunk Railroad lines which could feed Boston without in the slightest degree abrogating any contract which may exist with the Canadian Government. The Grand Trunk is out for business, and we of New England are out for business. I have shown our enormous trade with Canada, and it seems to me that if we, if not stupid, can do more business with Canada, and we should hope to have as good service for that business as can be obtained, both in speed, number of trains, and in freight facilities. I believe that any proposition relating

to improve, or new trolley or new steam railroads in Massachusetts will be attacked by the same gentlemen who are opposing the entry of the Grand Trunk. Let us see a voucher for this statement.

Let me read you a statement made by Mr. Frederick C. Dumaine, a member of the Boston Railroad Holding Co., before the joint railroad and transit commission, October 26, 1909. The statement I quote verbatim:

"Mr. Chairman and gentlemen, I appear here as the representative of the Boston Railroad Holding Co. to protest against the Boston & Easton Railway Co. petition to tunnel Boston Harbor to connect with the North Shore. The holding company, as you know, was created by last year's legislature for the purpose of controlling the railroad situation within the bounds of Massachusetts, and incidentally within New England. The holding company has proceeded in an orderly way to secure the majority of the stock of the Boston & Maine, and while it has not yet secured it, it has secured a working majority, etc. * * * It is the intention of the holding company to see to it that every point served by the Boston & Maine is adequately served, and we therefore pray you, gentlemen, that until we have demonstrated our inability or unwillingness to give such service you withhold the granting of this petition."

I maintain that the Boston & Maine has been in the control of the New Haven road for four years, long before the holding company was created, and instead of carrying out the agreement to increase facilities the Boston & Maine and the public have been "trimmed."

Particularly I would call your attention to this in the present situation in Fitchburg. Also among other things the strangulation of the Boston, Clinton & Fitchburg road. I shall not try to state how many trains have been cut off the service of the Boston & Maine under its new management. The service, as is well known, in most parts of the road is deplorable. So it seems that we can not hope for much from those who own all of our transportation; for where competition is lacking, endeavor is lagging, and where complete control is manifest, then always the results of dictatorship, unsavory to the public and unbeneficial to the shipper, is sure to appear.

Three railroads controlled 96 per cent of our railroad mileage in 1909. The roads were the New York, New Haven & Hartford, 1,818 miles; the Boston & Maine, 1,888 miles; and the Boston & Albany, 864 miles. The New Haven swallowed the Boston & Maine, its competitor, larger than itself, and is now having a hard time to digest it. The New Haven also, by a traffic arrangement, has virtually acquired the Boston & Albany, so that at the present time we have the whole three roads in one combination.

I urge that the Grand Trunk be allowed to buy or own what steamboats it desires, for I believe that it is their intention to stimulate commerce through the port of Boston by steamers running, not only to Great Britain, but with our own ports in the United States. And in this connection I wish to here repeat briefly that all our steamboats between here and Portland have been absorbed by the New Haven, contrary to the laws of the United States. These steamboats running along our coast from all intermediate points of importance, directly parallel to the New Haven system, so in this regard our coastwise commerce is also in the hands of the New Haven monopoly, owning parallel and competing lines, those on land and those on sea, which, if I mistake not, is contrary to the laws of the United States, as stated above. This is known to the President of the United States and his Attorney General, but is winked at.

Massachusetts has advantages in trade and commerce which the Grand Trunk seeks. This is apparent to the managers of the Grand Trunk, and on the other hand, the Grand Trunk has advantages for us which are of paramount importance to us. Boston is now our principal port, and it probably always will be, but we have other cities which can grow with the Grand Trunk's aid. In the discussion of the Grand Trunk situation I have not yet heard much of anything relating to our transportation connections for the development of trade and commerce. This is of more than passing interest and is worthy of most careful analysis, particularly distances and routes, etc., which connect us with the commerce of the world.

First, it is well to bear in mind that broadly speaking Liverpool is the most important point of England and is near enough to the other European ports for our purposes to be considered a shipping center. Boston is nearer Liverpool than New York or any other port of the United States except Portland. Boston has, at the present time, three great transportation arteries which are natural routes; the first may be classified under the head of steamship lines along our coast which have already been absorbed by the New Haven. These lines go south and connect with lines going west, but it is clear that freight coming from the south over these great ocean waterways must be delivered at New York where these lines center, rather than be brought to Boston, which would be far out of the way; hence, the greater amount

of traffic from the south Atlantic coast naturally goes from the south to the port of New York by the steamship routes. This also applies to many New England cities nearer New York than the port of Boston.

The next great route artery is the Mohawk Valley. In this valley the freight from the great region south from the Great Lakes, the region of the Mohawk Valley itself, and the regions of Lake Ontario and Lake Erie are taken up; added to this also is a large number of important cities, both inland and on the Lakes, that feed into the Mohawk Valley sphere, and still farther west beyond Cleveland we find the great areas of the prairies and the great fields of the northern central States radiating from fertile countries toward Chicago, St. Louis, and Cleveland, feeding for the most part through this same Mohawk Valley. Thus, this vast area mentioned and its tributaries is served by the New York Central Railroad, which with the New Haven has its traffic alliances. These places create an enormously productive business, feeding from the United States northwest around Lake Michigan, and raises about one-half of the grain of the United States and fully one-third of the cattle. But this business goes mostly to New York. Besides this area, the Mohawk Valley draws more to itself from Montana and Wyoming, the largest sheep producers in the world, Wisconsin, Minnesota, and Washington, first, third, and fifth respectively in lumber, and also draws from the north central States with their agricultural products, lumber and live stock, and great manufacturing centers of iron, packing houses, grain products, flour and malt liquors; all these pour through the Mohawk Valley route and are all tributary to the New York Central, going mostly to New York. There are four lines which lead to this valley; two of them go to New York. The New York Central is one and the West Shore is the other. The other two routes, the Boston & Albany and the Hoosac Tunnel route of the Boston & Maine lead to Boston. The latter road is controlled by the New Haven.

Each of these four roads, two going to New York and two coming to Boston, has track connection at Hoffmans, 25 miles from Albany, and I would for the moment center your minds at this town of Hoffmans and let us see some of the distances to it. First, it is clear that the lines from Hoffmans to New York have a great advantage over the lines from Hoffmans to Boston, both in grades and distances, for it is 50 miles nearer by rail to New York and the grade to New York is one-half to one-fifth less than the grade to Boston. And although Boston is 180 miles nearer Liverpool than New York, this difference does not compensate for the fact that the great areas mentioned feeding through the Mohawk Valley can reach tidewater at New York easier than they can reach tidewater at Boston, thus Boston, although connected with the Mohawk Valley sphere, and nearer Liverpool than New York, can not expect to get more than an overflow of the trade coming through the Mohawk Valley, owing to railroad distance and railroad grade. We are thus, although a valuable and nearer port to Liverpool, deprived by New York interests of the commerce of our own country.

Let this situation be carefully borne in mind, that added to this misfortune we find the New York Central has six tracks through the Mohawk Valley and four tracks down the Hudson, again still making freight beyond our reach. Again the New York Central runs the whole distance from Albany to New York at river level or sea level, confining itself closely to the banks of the Hudson, and the grades of the West Shore Railroad, although frequent, has at least, a 50-mile stretch where it also sticks closely to the banks of the Hudson River. These considerations again make us the more helpless.

Now, let us consider the two routes from Hoffmans to Boston. One is the Boston & Albany and the other is the Boston & Maine, over the Hoosic Tunnel division; the distance being on the Boston & Albany 227 miles, and over the Boston & Maine 214 miles. The Boston & Maine is 13 miles shorter and its maximum grades only about two-thirds of those of the Boston & Albany, but neither of these routes can adequately compete with the two routes from Hoffmans to New York.

I will now consider the three other great traffic areas, and the point of transcendent import to us with them is that they are all naturally tributary to Boston. The first is, of course, the Lawrentian system, or St. Lawrence Valley, perhaps the best natural waterway in the world. It reaches through the Great Lakes and with slight breaks, by navigable waters, clear to the foot of the Rocky Mountains.

In this great area flourishes, first, our whole tier of Northern States; secondly, the whole of the Canadian Dominion, practically east of the Rockies. For years to come enormous traffic will come from this region from both sides of the line, especially north and northwest. Still will come the traffic of the countries beyond the Pacific. Supplementary to this natural waterway and bound up with it are especially the Great Canadian railway systems, not only transcontinental from ocean to ocean, as now, but covering the whole fertile and productive interior with a perfect network of rails.

We find the Canadian Pacific Railroad, with its lines of steamers reaching to China and India on the Pacific over its own lines and the Atlantic end running through New

England. Again, there is the Grand Trunk octopus with its thousands of miles; also the Grand Trunk Pacific in its rapid completion through new and rich territory from ocean to ocean. Through the equally important Northern Railway, Mackenzie Man's system with 5,000 miles of line in operation, and aiming at extensions seaward.

All these, coming naturally down the St. Lawrence Valley, come into our sphere and there is no port so well calculated as Boston to handle the traffic in the winter months, or the extra traffic from Montreal the year round. For six or seven months of the year in the open season Montreal and Quebec have the advantage, Montreal being the greater of the two. Indeed, no port of the world has a better physiological situation than Montreal. It is now the second port on the American continent in sum of trade and has an ever-increasing natural hold.

Boston has advantages which will make the partner of Montreal in this vast trade the year round, especially as the winter port, if we work right.

The St. Lawrence Valley, the third sphere, is naturally an important route for foreign traffic, and its future possibilities is a vast field of consideration and of the utmost importance to Boston. What ports shall be chosen for the handling of this great traffic? Let us see: Montreal and Quebec are hardly available because they are closed with ice from five to six months of the year at a season immediately after the harvesting of the crops. They can never be controlling ports for this great British and Dominion traffic. The Grand Trunk knows this. We know it. We and they want that business. The other ports of serious consideration are Halifax and St. John, New Brunswick, Boston, New York, and Portland. Portland can be eliminated as a competitor to Boston, first, on account of bad grades to Canada, and, secondly, because there is only a slight difference in distance to Liverpool, and, thirdly, Boston's size already as a port makes it preeminent.

Now let us consider the difference between Boston and New York, where our advantages are clear. First, it is 50 miles shorter by rail from Montreal to Boston than it is from Montreal to New York, and if the Grand Trunk should build its own line into Boston the distance would be still less.

Boston has another great advantage: The Delaware & Hudson Railroad along Lake Champlain finds steep cliffs and sharp curves, making a serious drawback to freight traffic in New York. Again, freight carried down the Hudson Valley is carried over the West Shore line and the West Shore route has a bad grade to New York, thus destroying the only material advantage that this route has. Lastly, be if remembered that Boston is 180 miles nearer Liverpool than New York is. Boston has a distinct advantage over New York in competition of business from Montreal.

There are two remaining ports, Halifax and St. John, New Brunswick. I admit that St. John is 212 miles nearer Liverpool than is Boston, and Halifax is 501 miles nearer Liverpool than is Boston, but this does not give either of these cities an advantage over us because the route over the Intercolonial Railroad from Montreal to St. John, with easy grades along the St. Lawrence Valley, is 740 miles as against 335 miles to Boston; the Canadian Pacific route to St. John has such heavy grades that it can not be considered an important route for heavy traffic.

This leaves us Halifax as the last port to be considered. Halifax with its deep, open harbor is in a worse position than St. John. It is 837 miles from Montreal by the Intercolonial line to Halifax, and by the Canadian Pacific line from Montreal, via St. John, to Halifax is 758 miles, with heavy grades, particularly between Montreal and St. John.

Thus I have briefly yet, I hope, concisely shown a fundamental reason why the Grand Trunk wants to come here, but there are other reasons of no less importance. The Grand Trunk at Coteau Junction, 38 miles west of Montreal, makes a short cut across the St. Lawrence on a bridge of its own and runs across the St. Lawrence Valley to the head of Lake Champlain, where it connects with the Central Vermont and thus gives us a still further saving in distance of 34 miles.

	Miles.
Coteau Junction to New York.....	338
Coteau Junction to Boston.....	339
Coteau Junction to Portland.....	336
Coteau Junction to St. John, New Brunswick.....	519
Coteau Junction to St. John over the Intercolonial.....	778
Coteau Junction to Halifax over the Grand Trunk, Canadian Pacific, Intercolonial.....	796
Coteau Junction to Halifax over the Grand Trunk-Intercolonial.....	875

Thus Boston is the best port geographically for this great Canadian and British traffic, and has the best line to reach from the St. Lawrence over the Ottawa division of the Grand Trunk, thence to the head of Lake Champlain, thence to Central Vermont. If producers in Canada and the northwest understand that their goods can be

shipped cheaper through, and that extra expense of shipping through Canadian ports is a tax on each pound, they will demand the cheapest outlet and this demand can not and will not be disregarded.

I have attempted broadly to show the natural flow of traffic between central North America and the North Atlantic coast. Such considerations as I have given are all of importance to our future history.

Traffic like a stream from the hillsides will flow in the lines of the least resistance. I do not deny that Boston will have to compete against New York, but what I say is this: That we have already humbly submitted to New York domination, and the entry of the Grand Trunk is a chance for our future development and an opportunity to save ourselves from further aggression. Boston has natural advantages over all other ports, and I believe that if we embrace the opportunity offered we will be a controlling factor in traffic arrangements, and do well in bringing Boston back to her former prestige through the great commerce and trade with our British neighbors, to whom we are already under a huge debt of gratitude, both in trade and commerce.

These are a few facts. If every citizen of the State knew them the New Haven would not dare oppose the entrance of any system which would give us relief from the hands of the monopoly in our midst.

MR. WHITE. I should like to leave this list of speeches, entitled "A résumé of the evidence submitted to the Massachusetts Legislature on the application of the Southern New England Railroad Corporation to enlarge and extend its corporate powers." These speeches all bear on the same problem.

EXHIBIT H.

No. 1.—Speech of La Follette, April 12, 1910. Merger notes from La Follette's speech.

No. 2.—Copies of statement of Frederic C. Dumaine, showing his interpretation of the powers of the Boston Railroad Holding Co.

No. 3.—(a) Speech of Norman H. White, embodying facts from La Follette's, Grand Trunk and New Haven, and facts from the commission on commerce and industry in their report March, 1908. (b) Digest of above.

No. 4.—The Antimerger League. Votes of various organizations.

No. 5.—Statement of Attorney General Malone, of Massachusetts, January 20, 1909.

No. 6.—(a) Copy of the decision of the Supreme Court of Massachusetts in the case of the attorney general against the New York, New Haven & Hartford Railroad (concerning the holding of Massachusetts trolleys by the New Haven road). (b) Copy of the United States suit against the New York, New Haven & Hartford Railroad Co., instituted by Roosevelt and stopped by President Taft about a week after the passage of the Boston Railroad Holding Co. bill. (c) The ruling of Attorney General Herbert Parker, April 28, 1905, in reply to an order of the Massachusetts House of Representatives whether the New Haven had the right to purchase trolleys. (d) The ruling of Attorney General Parker, April 6, 1903. (e) Statement of Charles F. Choate, jr., counsel for the New Haven road made on behalf of Timothy E. Byrnes, vice president of the New York, New Haven & Hartford Railroad, made immediately after the decision of the Massachusetts Supreme Court.

No. 7.—Résumé of evidence submitted to the Massachusetts Legislature on the application of the Southern New England Railroad for the Grand Trunk, including statements made by Moorefield Storey; Earl H. Fitzhugh, president of the Southern New England; David O. Ives, manager of the transportation department of the Boston Chamber of Commerce.

Report of the joint boards of the directors of the port of Boston and the board of railroad commissioners.

Statement of Frederick C. Salter, European traffic manager of the Grand Trunk Railroad.

Statement of Hon. John F. Fitzgerald, mayor of Boston; John J. Attridge, of the Boston city council; W. S. Schuster, of the governor's council; R. S. Bauer, of the Essex County Board of Trade; Norman H. White, of Brookline; D. F. Lawrence, general freight agent of the Central Vermont Railroad; E. H. Vaughan, city solicitor of Worcester, Mass.; H. H. O'Rourke, alderman of Worcester, Mass.; Hon. William S. McNary, port of Boston director and former United States Congressman from Massachusetts; Charles T. Tatman, of Worcester, Mass.; A. M. Child, secretary Haverhill, (Mass.) Board of Trade; Thomas H. Shepard, of Boston, for the export lumber trade; Andrew A. Casassa, chairman of the board of selectmen of Revere; Hon. Eben S. Stevens, representing the Business Men's Association of Webster and Dudley; Robert C.

King, member of the United States Leather Co. and member of the Chamber of Commerce; Alexis P. Boyer, jr., chairman of the board of selectmen of Southbridge and representing the Board of Trade and Commercial Club of Southbridge.

Remarks by M. P. O'Shaughnessy, of Southbridge; George Grant, newspaper publisher, Southbridge; James Cox, of two manufacturing concerns of Webster; Joseph P. Love, business man and former Massachusetts representative of Webster.

Argument of Joseph B. Eastman, secretary of the Public Franchise League.

Newspaper editorials from all parts of the Commonwealth of Massachusetts, including indorsements from every newspaper of note.

Vote of the Milford Board of Trade.

Statement of John H. Murphy, secretary of the Lowell Board of Trade, and others from this board and the Real Estate Exchange.

Resolutions and reports of the Boston Chamber of Commerce indorsing the entrance of the Grand Trunk.

Resolutions of the Massachusetts Real Estate Exchange.

Report of the special committee of the Lowell Board of Trade.

An order adopted unanimously by the Massachusetts senate in the year 1911.

Mayor Fitzgerald's letter to the Grand Trunk Railroad, Ottawa, Canada, under date of April 26, 1911.

Votes of the Essex County Boards of Trade held at Salem, Mass., February 15, 1912.

No. 8.—Statement of Gov. Douglas against the New Haven monopoly and the taking of the Boston & Maine Railroad (p. 79, Report of Commission on Commerce and Industry, 1908); also statement of James R. Crozier, one of the commissioners in the same report (p. 83).

Statement of Ex-Gov. Curtis Guild in the Commercial Bulletin.

No. 9.—Letters between Norman H. White and President William H. Taft concerning the New Haven monopoly and the dropping of the United States suit.

No. 10.—Speech of Louis D. Brandeis, February 11, 1908, before the New England Dry Goods Association.

No. 11.—Analysis of the shareholders on the New England Investment and Security Co. Illegal. (1910.)

No. 12.—Report of the railroad commissioners, January 18, 1909, concerning the taking back by the New Haven of the Bennington & North Adams Street Railway Co. and the Berkshire Street Railway. This report being a reply to an order of the Senate asking whether or not such purchase is expedient.

No. 13.—Statement of Louis D. Brandeis on the financial condition of the New Haven, 1907.

No. 14.—Map showing trolleys, railroads, and steamships owned by the New Haven in 1908.

No. 15.—Argument of Charles S. Mellen and Hon. William B. Lawrence, October 18 and November 9, 1909, before the bank commissioner, the tax commissioner, and the railroad commission regarding the illegal increase of the stock of the New Haven Railroad.

The CHAIRMAN. I did not mean that we asked you to conclude now.

Mr. WHITE. I do not wish to take any more time than is my share, but I can simply say this. I do not believe my good friend over yonder will dispute that there is a huge transportation monopoly in New England. I do not believe any member of this committee will dispute it. I do not believe the New Haven road or their friends can establish the fact that such monopoly of trolleys, and the monopoly on the Boston & Maine Railroad, which virtually sealed the monopoly, was not known to be contrary to the laws of Massachusetts, as described by unanimous decision of the Supreme Court of Massachusetts. Now, with a monopoly established against our law, they then turned and made a Boston holding device, which in itself seems to most eminent people illegal. Immediately after the creation of that holding device the United States Government stopped its suit, and we seek relief. We ask you, gentlemen, if it is not a possibility that you should analyze this thing and sift it, exactly like my statement, and of my first statements, regarding a gentleman named Taft.

It is a current impression, as this gentleman in New York, a stranger, wrote me that Mr. Taft is the President's brother. Those rumors should be run down; we should find out where we stand. And I think, Mr. Chairman, in view of the fact that the present Attorney General has already dropped the suit, it seems to me that for our ultimate protection and for the welfare of our citizens we should have a remedy.

Mr. GARRETT. How does the Boston & Maine compare in mileage with the New York, New Haven & Hartford road?

Mr. WHITE. The Boston & Maine in iron is, I think, about a couple of hundred miles longer than the New Haven railroad iron; that is, the individual tracks of the New Haven. It was a case of one company swallowing another—the one larger than the other.

Mr. Chairman, I have forgotten one thing. I do not wish to trespass upon your time, but I am very much interested in this.

In the year 1907, May 31, the New Haven Co. consolidated itself in and with the Consolidated Railroad Co. in Connecticut, and got a charter in that company, which charter is a huge holding company, with the power to buy gas, electric light, water power, and all those lines of human endeavor may be called public franchise business, and they have gone forth and raised their capital from \$87,000,000 some ten years ago to \$450,000,000 odd, nearly one-half a billion of dollars, and considerably more than one-half of that great capital is invested in things which are not railroads. It is not a monopoly of railroads we have; we have a business, a vast huge holding company to go into any old thing practically that the public is interested in. Now the New Haven Railroad has earned in the last some four or five years somewhere about 11 per cent on its common stock, and it has earned about $4\frac{1}{2}$ per cent on its bonds, but, Mr. Chairman, it only pays a dividend of, say, 4, 5, or 6 per cent. Why? Because it is so loaded down with these nonproductive things that are not railroad things that it has to pay a much lower dividend than it, as a railroad, earns, and it seems to me, as a citizen of my State, absolutely unfair that I should get poor service, that our people should be maimed, and that our freight should not go as it often has not gone properly, according to the congress in Boston now, and we bear the load of the establishment of a huge, vast holding company, a company going into vast enterprises simply because the people of the New Haven like to do it. It seems to me entirely unfair and unreasonable, and in that connection I will leave here with you an analysis, by Mr. Louis D. Brandeis, of the financial condition of the New York, New Haven & Hartford Railroad and of the Boston & Maine Railroad in 1907, showing the enterprises into which the New Haven road has gone. The United States suit also indicates the enterprises into which they have entered.

Mr. O'SHAUNESSY. I wish to make this request, that Mr. Davidson, from Worcester, has a very important communication to make, and will be able to conclude his remarks in a few minutes, probably within 10 minutes.

The CHAIRMAN. If the committee has no objection, we will give ten minutes to this gentleman.

STATEMENT OF MR. HERBERT DAVIDSON, OF WORCESTER, MASS., PRESIDENT OF THE NEW ENGLAND ASSOCIATION OF COMMERCIAL EXECUTIVES.

Mr. DAVIDSON. Mr. Chairman and Gentlemen: I represent the city of Worcester, and I find myself in somewhat of an unfortunate position here because I am obliged, at the start, to take issue somewhat with my predecessor. I do not wish it understood, so far as I am concerned or the interests that I represent, that we come here making any attacks upon the President of the United States, upon the Attorney General, or so far as I know, upon the New York, New Haven & Hartford Railroad, and it so happens I am president of the New England Association of Commercial Executives, representing 60 commercial organizations in New England. I understand the principal business of this committee is to investigate the stopping of the construction of the Grand Trunk Railway, and upon that issue I am here, and I should like to be heard.

It may be that the committee will wish to go into the trolley matter, but I am of the opinion that the State of Massachusetts has plenty of power to enforce that matter and I want to assure you gentlemen there are two sides to that question and, that so far as I am concerned, I hope the Federal Department of Justice will make an investigation, if one is to be made, rather than this committee. I wish to say further that, so far as Gov. Draper is concerned, there is nothing secret or underhanded about the Boston holding bill. In a public address, which he delivered before the Worcester Board of Trade in the presence of 1,000 men, he stated it was his purpose to bring the Boston holding bill to the attention of the legislature, and we well understood in Worcester that that was his purpose.

In reference to the Grand Trunk Railroad, the Grand Trunk Railroad has not operated in New England, except through a subsidiary corporation, known as the Central Vermont, and about the year 1910 we began to hear that they were contemplating building a branch from the Central through Vermont at Palmer into the city of Providence, and, inasmuch as that road comes within 14 miles of the city of Worcester, we of course sought to secure connections at Webster, because it was well understood that the Grand Trunk Pacific was building an outlet at Prince Rupers, in Canada, which would give us an outlet in the west and which would provide us three lines to the Grand Trunk and Grand Trunk Pacific, the Boston & Albany, its connections, the Lake Shore & Michigan Central, the New York, New Haven & Hartford Railroad. I was secretary of the board of trade and Mr. Charles Tatman, to whom reference has been made, was the president, and Mr. Tatman and myself went to Providence and we interviewed there Mr. Fitzhugh, who was at that time the president of the Central Vermont, and was the active man in the construction of what was known at that time as the Southern New England, and branches, to be constructed from Palmer to Providence.

We secured from Mr. Fitzhugh the assurance that upon proper representations from the city of Worcester, such representations as we learned had been made from Providence, that the Grand Trunk would consider the construction of a line from some portion of the additional line they were to build into the city of Worcester, and I took the matter up at that time with Mr. C.M. Hays, the president of the

Grand Trunk, and I received assurances from him that they would entertain such a proposition from the city of Worcester, and as a result of the interview we had with Mr. Fitzhugh we procured the services of a civil engineer, who drafted a plan whereby, through a tunnel 4,000 feet long, entrance could be secured into the city of Worcester without passing over the tracks of any of the competitive lines. We had this plan prepared and forwarded to the Grand Trunk Railroad, and I have in my possession a letter of acknowledgment from Mr. Fitzhugh, stating that that plan was received by that corporation and that he would have his own engineers subsequently verify the plan. After having secured from the State of Rhode Island the legislation necessary to construct the line as far as Rhode Island was concerned, the Grand Trunk Railroad came to the State of Massachusetts and asked for the privilege to build such portion of the line as was to be built in the State of Massachusetts, connecting from Palmer to the State line into New Jersey, and also providing for a line running both north and south, running, I think, from Blackstone to Boston, and running into Boston from the north. A bill was accordingly drawn and was introduced into the Massachusetts Legislature and, as a matter of fact, I did a great deal of work in connection with that bill, and although Mr. White did not mention my name, I was one of the gentlemen who appeared before the committee at the time this matter was before the House. Mr. E. M. Woodward, president of our board; Mr. Tatman, and myself were representatives from the Worcester Board of Trade, and we were in consultation with the Grand Trunk Railroad with reference to the construction of the branch from Palmer or from some point on that line into the city of Worcester.

We were naturally somewhat skeptical, it being the New England way to be cautious, at least, as to the good faith of the Grand Trunk in building this line, and after having had several interviews with Mr. Fitzhugh, I requested him to accord us an interview in Boston at the Hotel Touraine, where he was stopping, where we could find out definitely whether the Grand Trunk was proceeding in this matter in good faith. There was present at that interview Mr. Louis Booker, Mr. E. M. Woodward, president of the Worcester Board of Trade, and myself, and I put the question to Mr. Fitzhugh: "Are you intending, Mr. Fitzhugh, to build this line, do you intend in good faith the construction of this line, if this charter is granted to you by the State of Massachusetts, and are you backed up by sufficient money and authority to construct the line, if the State of Massachusetts grants you this privilege?" and Mr. Fitzhugh replied: His reply was that the Southern New England Railroad had asked the State of Massachusetts, in good faith, to build this road; that they intended to build it and that they were backed up by the Grand Trunk in their contention. I then asked him if he represented the Grand Trunk, and he said he did; that they intended, if given the privilege by the State of Massachusetts, to build that line from Palmer to Providence, to build the line, the branch from some portion on that line, and to build to the northern and southern extensions. There was never any question in our minds, so far as this being an attack on the New York, New Haven & Hartford Railroad. We never considered that question, and it never was talked. The thing we are anxious to have in New England is service, and that was the thing we asked Mr. Fitzhugh, whether he would assure us that this line would be built,

and he said he would; he said absolutely, that there was no question in the faith of the Grand Trunk; they were able to take care of all the freight we would give them and if we would allow them to build this line we would have service and ample service over this line, and that as a result of that service the New York, New Haven & Hartford Railroad would undoubtedly be keyed up so they would give us service as well.

It was our belief that Mr. Fitzhugh was acting in good faith that led us, as a board of trade, to work up this measure, and I believe, as far as I know, the Worcester Board of Trade did more to have this line constructed than any other commercial organization in Massachusetts, and we did it simply and solely because Mr. Fitzhugh assured us he was representing the Grand Trunk Railroad, and the Grand Trunk Railroad would furnish the funds to build this line. As a matter of fact, in that interview to which I refer, he stated that the contract had been let for the construction of the entire line; that the steel had been bought, and that the line would be built in 1913, and that undoubtedly upon its completion the line from some portion on the road, Palmer or Douglas, or whatever place might be, would be constructed into Worcester. He also stated that the Grand Trunk Railroad had purchased two steamers; that they would put them on in Providence, and that they would give ample competition at that point. There never was any question in our minds that Mr. Fitzhugh was acting in good faith and that he intended to build this road, and we were as much surprised as you gentlemen were; as the gentlemen in Providence were; as the men along the line were, when we found this positive statement given out by Mr. Fitzhugh that the line was abandoned in its entirety.

I have the records of the votes taken in our organization in reference to this matter, if the committee desires to have them furnished, and I shall be very glad to answer any questions. As a matter of fact if we attempted to go into the railroad questions here, you gentlemen probably would be busy during the rest of this session.

Mr. GARRETT. Have you any information of any character as to how this work was stopped?

Mr. DAVIDSON. No, sir; so far as I know there is no information at all. I would say, sir, in answer to that question that after the work was stopped, as a result of a vote passed by our board, inquiries were sent both to Mr. Chamberlin in Montreal, and to Mr. Smithers in London, and the cable tolls, as a matter of fact, cost the Worcester Board of Trade \$27, and we never have received any reply from either of the gentlemen.

Mr. LENROOT. Have you concluded your statement?

Mr. DAVIDSON. Yes, sir.

Mr. LENROOT. I understood you to say in your opening statement that you did not make any claim about the New Haven Railroad being involved in any way in this matter?

Mr. DAVIDSON. No, sir; I am simply appearing here to tell you what my experience has been with the Grand Trunk Railroad.

Mr. LENROOT. Then I will ask you to indicate to the committee what power or jurisdiction Congress would have over this subject to give you any relief if the New Haven Railroad is not located?

Mr. DAVIDSON. As a member of this committee you probably can answer that question a great deal better than I can.

Mr. LENROOT. I should like to ask you why you are requesting this Congress to take action?

Mr. DAVIDSON. As a matter of fact, I do not ask that, but if you would ask me my opinion I will say that I think the Federal Department of Justice is the proper authority before whom to bring the proceedings.

Mr. LENROOT. For what purpose?

Mr. DAVIDSON. For the purpose of finding out whether there has been any collusion between these two contracting parties, or not.

Further hearing of committee adjourned until 10.30 o'clock a. m. Wednesday, December 11, 1912.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1912.

The committee met, pursuant to adjournment, at 10.30 o'clock a. m., Hon. Robert L. Henry (chairman) presiding.

The CHAIRMAN. I want to say the committee have decided that the gentlemen in favor of the resolution should close their case by noon, and we will give the afternoon to the other side. We must get through with this matter to-day, as there are a number of pressing matters that the committee must take up to-morrow.

Mr. O'SHAUNESSY. We will do the best we can, although at the most some of the people who have come here will be closed out under that ruling.

The CHAIRMAN. We will give them an opportunity to put their remarks in the record.

**STATEMENT OF MR. FREDERICK J. MACLEOD, CHAIRMAN OF
THE MASSACHUSETTS BOARD OF RAILROAD COMMISSIONERS.**

Mr. MACLEOD. My official position is chairman of the Massachusetts Board of Railroad Commissioners. I have attended this hearing in response to a telegram received from Congressman O'Shaunessy, and from the belief of the board which I represent that the matter which has been brought to the attention of this committee is deserving of the fullest inquiry and the widest publicity.

I have not prepared any formal statement to make to this committee, and I hardly know to what extent it is necessary for me at this stage of the proceedings, after the other testimony that has been offered, to go very fully into the case. I think, however, that I perhaps might start by making a definite statement in regard to a matter which was made a subject of inquiry at the hearing yesterday, as to whether or not there was at the present time any proceedings pending before the Federal grand jury of the district of New York with reference to this matter. Now, that is a matter upon which I am qualified to give testimony, because on Monday, prior to my coming to Washington, I appeared as a witness before the Federal grand jury which is now in session in New York. I should say it also, in order that my position may be thoroughly understood in this matter, that I have no desire or intention to insinuate for a moment that the

Department of Justice is not doing its full duty in this matter, because I believe that the inquiry is being prosecuted with vigor. I conferred with the Department of Justice several times in Washington, about two weeks ago before these proceedings were initiated, and since that time the agents of the Department of Justice have been making, I believe, a very thorough investigation of this matter, both in Massachusetts and Rhode Island, and I think in other New England States.

Mr. GARRETT. When you referred to this matter, did you refer to the Grand Trunk or the entire situation?

Mr. MACLEOD. I think it might perhaps be desirable also, in response to that question, to define that matter more accurately than the impression which seems to have been left in the minds of the committee as a result of the hearing yesterday.

Some allusion was made by Mr. White, in his testimony yesterday in regard to a suit which was brought by the Department of Justice some two or three years ago under the Sherman Act, and the abandonment temporarily or otherwise of that proceeding; and the inquiry was made by some member of this committee, I believe, as to whether or not that matter was not now in the hands of the Attorney General. I think it is proper to say that so far as I understand, and I believe I am not violating proprieties in saying that I understand that the inquiry before the Federal grand jury now pending is strictly limited to the question as to whether or not the contemplated agreement between the New York, New Haven & Hartford Railroad and the Grand Trunk Railroad system is in violation of the Sherman Act, and as I understand it, that matter in turn rests substantially upon the determination of the fact as to whether or not the abandonment of these contemplated extensions of the Southern New England Railroad were one of the elements of the controversy; that is to say, if the Department of Justice should be able to establish the fact that the abandonment of this work by the Southern New England Railroad was one of the conditions of the agreement entered into; that is to say, if the facts should be found that the New York, New Haven & Hartford Railroad offered certain trackage and traffic rights over its lines in consideration of the Grand Trunk abandoning its contemplated extensions, I think there is very little doubt that that will be found to be in violation of the Sherman law.

Mr. GARRETT. You say there is very little doubt that it would be a violation of the Sherman law?

Mr. MACLEOD. Yes; that it would be found to be a violation of the Sherman law.

Mr. GARRETT. May I ask you in that connection—that is one of the matters which is in my mind—this railroad is uncompleted, of course—do you think the Sherman law is sufficiently broad to cover a situation of that sort, where a road acquires a possible rival?

Mr. MACLEOD. It is my understanding that if the inquiry should develop those facts the Sherman law would cover that situation. I have little reason to doubt that if it should be proved that those were the facts indictments could be found and convictions returned under the Sherman law.

Mr. GARRETT. That is a very interesting question, I think, and a question that will be very gravely considered—whether the Sherman law is broad enough to include a situation of that character, and whether or not it does not need amendments in order to cover cases

of that kind. Are there any instances in which the courts have passed on that proposition that you know of?

Mr. MACLEOD. I do not know, and I can not give any particular citation on that point.

Mr. ALBERT H. WALKER. If you will permit me, Mr. Chairman, I could answer the gentleman on that point. The United States Circuit Court of Appeals for the Third Circuit, in the celebrated case known as the "Reading Coal Combination," decided exactly that point—suppression of the proposed railroad by a combination was a violation of the Sherman law.

The CHAIRMAN. Is that case cited in your book, Mr. Walker?

Mr. WALKER. It is cited in the amendment that I have published since. The case is pending in the Supreme Court now, upon appeal.

The CHAIRMAN. We will be very glad to have the reference so as to put it in the record.

Mr. WALKER. The reference is: Case reported in 183 Federal Reporter, page 497 (and many other cases).

The CHAIRMAN. What judge rendered the opinion?

Mr. WALKER. The opinion was a peculiar opinion, because not all the judges agreed on all the points. There were five points in that case. This is one point, and the court, by a vote of two against one, decided that the Sherman law was violated in that case. The dissenting judge did not base his dissent upon any doubts upon the application of the Sherman law to such facts, but he based his dissent upon proof of the facts. But it was conceded by all the judges that if the projected railroad was suppressed by a combination between two corporations, that was in violation of the Sherman law.

Mr. GARRETT. You say suppression by a combination between two railroads. Do you mean between one road and a projected road, or between two already existing railroads who sought to crush out a projected railroad?

Mr. WALKER. The projected railroad was not built at all.

Mr. GARRETT. Yes, but assuming that the insinuations here are well founded, that the New York, New Haven & Hartford Railroad, by dealing directly with the management of this projected railroad, have caused it to be stopped, that would not be on all fours with that case?

Mr. WALKER. Yes, it would be. I see no distinction whatever.

The CHAIRMAN. Now, in the opinion in the Reading Coal case then, they held that the conspiracy was between the projected railroad as well as the railroad in being at that time?

Mr. WALKER. Yes.

The CHAIRMAN. I thank you for the reference, Mr. Walker.

Mr. MACLEOD. In so far as the present resolution contemplates any inquiry into that particular narrow phase of the present situation, I believe that the inquiry that is now in progress under the Department of Justice will be instrumental in determining what the facts are, and if those facts are found to be what I have indicated, the Department of Justice, the Federal authorities, are compelled to take the action that is necessary and adequate to deal with that situation under the existing law. But as I understand it, that is the very smallest corner of this whole question, and it is, in many ways very much the least important aspect of the whole matter, and while I do not intend to go over the ground that has been men-

tioned before, there are one or two points in that connection that I should like to make a little more clear than I believe they are at the present time in the minds of the committee.

The road which has been abandoned by the Grand Trunk Railroad—and in what I have to say I may use the names “Grand Trunk Railroad” and “Southern New England Railroad” interchangeably, because while the corporation that is chartered under the Massachusetts laws is the “Southern New England Railroad” corporation the entire ownership of the stock in the Southern New England Railroad, except the necessary qualifying shares, are held by the Grand Trunk Railroad of Canada; and the road, I started to say, which was abandoned by the Grand Trunk was the road contemplated and in process of construction between Palmer, in Massachusetts, and Providence, in Rhode Island. That road was well under way, and the testimony already given here shows the extent to which that work had been carried at the time the work was abandoned. But so far as Massachusetts is concerned, so far as New England is concerned, and I believe so far as Providence, in Rhode Island, is concerned, the completion of this road was only a very minor feature of the very much larger enterprise which the Grand Trunk had in mind in making a direct entry over its own rails into the city of Boston, so as to make it possible for them to carry over their own rails from Chicago through to Boston the great western traffic which might be delivered to them at Chicago, which is the focal point for all of this kind of traffic.

That was regarded, I believe, by the whole New England community as one of the most far reaching and most important developments commercially and in the way of transportation that has occurred in New England for a great many years. It is not necessary for me to go into that. If there is anybody who desires to ask any questions I believe I can show to the committee exactly how the entrance of the Grand Trunk into Boston, and thereby into the commercial heart of New England, in the opinion of the best-informed people of Massachusetts was going to be a matter of the very first commercial importance, and the abandonment of the line from Providence to Palmer also contemplates the abandonment of all these projected extensions under the act of this year. The original location, from Palmer to Providence, in Massachusetts, was obtained under the general law without going to the legislature at all, and all the necessary procedure under the general law having been complied with by the company they proceeded to build. This year they came before the legislature for an extension of those rights and with the purpose of obtaining a right to build in there their own line from White River Junction to Providence. As there were certain rights which the Southern New England Railroad desired which they could not obtain under the general law they went to the legislature for a special bill, and that matter was the storm center of political and transportation interests practically throughout the entire session of the Legislature of Massachusetts last year.

The matter was referred to a joint board consisting of the directors of the port of Boston and the railroad commission sitting jointly, and the bill was afterwards referred to the railroad commission as an independent board for a report upon the bill, and both the joint board and the railroad commission recommended not only the broad principle of legislation embodied in the bill, but practically approved

the terms of the bill with certain amendments, which were suggested by the railroad commission.

In taking that action these public boards were simply voicing what I believe was the unanimous—absolutely unanimous—opinion of commercial bodies, boards of trade, shippers, and all those who had a personal experience with the transportation conditions under the present system. As a result, in large measure, of the passage of this bill the State of Massachusetts authorized the expenditure of several millions of dollars in the great work of development of the facilities of the port of Boston, involving many millions of dollars, and that while the matter was initiated before the Grand Trunk people came before the legislature the expenditure of the funds by the directors of the port was in large measure due to the expectation that the coming in of the Grand Trunk Railroad into Boston was going to make for the development of the port of Boston, which, as we saw it, under present management is absolutely impossible.

Then, as you have already been told, the whole matter was suddenly abandoned. Just how sudden that matter was is indicated by the fact that I believe less than 10 days before this public announcement was made there were three or four officials of the Central Vermont Railway, who were also officials of the Southern New England Railroad, who appeared before the Boston City Club and gave a very glowing description of the improvements that were likely to follow from the completion of this road and describing the benefits that were likely to accrue for the State of Massachusetts and for New England as a whole.

The CHAIRMAN. Let me ask you one question, so as to get it clearly in my own mind. I am not sure that I understood the statement fully yesterday. Is it a fact that one and a half millions of dollars were spent in actual construction work before the work ceased, and that claims, I believe, amounting to another one and a half millions are still unsettled, which would make three millions in all in work and claims and obligations incurred?

Mr. MACLEOD. Of course, I do not know what the situation may be in Rhode Island, but in the State of Massachusetts they have an authorized capital stock of \$1,856,000, I believe, all of which has been paid into the treasury of the corporation; and I understand unofficially that a large proportion of that sum has been expended on the work already done on the lines in Massachusetts, and I should not be surprised if the total amount expended exceeds that amount.

The CHAIRMAN. Exceeds \$1,800,000 in the State of Massachusetts?

Mr. MACLEOD. I should say it certainly would exceed that amount, if you take into consideration the obligations in the way of payment of land damages already incurred by the company.

Mr. O'SHAUNESSY. May I interpose? The mayor of Providence tells me that the vice president of the Southern New England Railroad told him they had one and a half million, and that the total expenditures involved, in the amount already spent and that contracted for, was four millions of dollars from Providence to Palmer.

Mr. MACLEOD. On the other lines, notably from White River Junction to Boston, as well as on the other branch lines which were included in the bill which the legislature passed this year—that is to say, the connection from Blackstone to Boston and from Douglas to Worcester—all those lines had been surveyed and the preliminary

engineering on those lines had been practically completed, but no definite work of construction had been begun, because in an amendment to the law passed this year it was necessary that the company should determine its location as a whole before coming to the board of railroad commissioners for approval.

Now with regard to abandonment of the work, I do not know that I have any particular light to throw on that matter. I might say I had a conference with Mr. Chamberlin, of the Grand Trunk, in New York—I think it was on the 18th of November—and Mr. Chamberlin stated at that time that the abandonment of the work on the Southern New England Road was not in any sense involved in the agreement which had been projected between the two railroads; but Mr. Chamberlin also stated that the agreement in its present form—and he showed me a copy of the agreement which had been submitted by Mr. Mellen—was not satisfactory to the Grand Trunk, and that he expected at a later time to make a counter offer, and that if they were not successful in getting terms of an agreement satisfactory to the Grand Trunk, that they could build their own line into Boston; that they wanted the New England business, and they intended to be in a position after that to compete for it; and the whole attitude of Mr. Chamberlin was what must inevitably have been the attitude of any one in similar circumstances; that if this agreement were consummated they would not build; and, of course, the signing of an agreement between the two roads which would give certain traffic and trackage rights over the reciprocal lines satisfactory to the parties would inevitably mean the abandonment of the original project; and as to whether or not that was definitely intended, I think it is proper to observe that the parties must legally have contemplated what was the natural consequences of their own acts.

The CHAIRMAN. Has the agreement ever been signed?

Mr. MACLEOD. The agreement has been signed by Mr. Mellen on behalf of the New York, New Haven & Hartford Railroad.

The CHAIRMAN. And you saw a copy of that agreement?

Mr. MACLEOD. I saw the original agreement.

The CHAIRMAN. Have you a copy of it in your possession?

Mr. MACLEOD. No; I have not a copy in my possession, and I understand that while the Department of Justice has a copy they have taken the position that they received it in such a way that they do not desire to give out a copy.

The CHAIRMAN. Could you prepare a copy of it in any way for the benefit of this committee? It is a very important paper, and if we take action we would like to see a copy.

Mr. E. G. BUCKLAND (vice president of the New York, New Haven & Hartford Railroad Co.) Mr. Chairman, I telegraphed to Mr. Mellen yesterday, stating that the Attorney General stated that he did not feel that he ought to give out a copy under the circumstances under which it was received, and yesterday afternoon I received this telegram from Mr. Mellen, dated Boston:

Your message delivered. Freest permission possible.

Personally I have not a copy in my physical possession, and I do not know of any copy this side of New Haven.

The CHAIRMAN. Could you get a copy from the Attorney General, or have a copy made? It seems there is no objection to it, and the

committee would like, and certainly must have, a copy of it in order to act on this matter intelligently, it seems to me.

Mr. BUCKLAND. There is not the slightest objection to having this copy, and it is only a question of how soon we can get it.

The CHAIRMAN. I should be very much obliged if you would get a copy for the committee as soon as possible.

Mr. BUCKLAND. I will ask my assistant here to call up the Attorney General's office in the hope of having a copy made, and in the interim I will wire to New Haven.

Mr. MACLEOD. I think it ought to be made clear to the committee that while this is spoken of as an agreement it might more properly be described as an offer on behalf of the New York, New Haven & Hartford Railroad; that is to say, in the letter of transmission which Mr. Mellen sent with the agreement to Mr. Chamberlain he stated that this document embodied what he believed was the understanding that had already been verbally entered into between the presidents of the two roads, and the same had been duly executed on behalf of the New Haven and was submitted to Mr. Chamberlain to become effective when executed by Mr. Chamberlain on behalf of the Grand Trunk Railroad, and in the meantime to be considered in the nature of an offer.

Mr. Chamberlin stated that the agreement was satisfactory so far as it went, but it did not cover all the points which he believed were embodied in the verbal understanding, and that the agreement, or offer, in its present form was not satisfactory to the Grand Trunk, and that they expected later to make a counter offer. That is the situation in regard to that.

It is my guess that the attorney general is going to have a great deal of trouble in proving that there was anything else in this agreement except what was embodied in the terms of it. This, of course, may represent the whole transaction, but there was a significant juxtaposition of events there in the execution of this agreement and the practically simultaneous abandonment of the work, but whether or not it is possible to show by any proper legal proof that the two matters were in any sense connected is rather a different and more difficult matter.

Mr. O'SHAUNESSY. May I ask Mr. MacLeod this: You would look upon the finding of an indictment as doubtful?

Mr. MACLEOD. I do not know that I ought to express any opinion on that, because I do not know what the evidence is.

Now, with reference to the propriety of inquiry on this whole subject matter before this committee, that question has been asked of several of the other witnesses, and while it is not my intention to do anything more than to state to the committee whatever facts may be relevant in this case, and while I do not attempt to suggest to them whether or not on those facts they believe that they would be warranted in making an inquiry, there are certain aspects of this case which do seem to me to justify or make desirable some form of Congressional inquiry, and, of course, I appreciate that any consideration of this matter by this committee must be done with the idea that the matters developed during the progress of the hearing by this committee should decide that the hearings should be held; that the matters developed at that hearing might become the basis of some legislation on the part of Congress, and it seems to me that

if this whole situation is gone into it is going to open up a great many questions of very wide general interest, more especially with reference to the general control of public utilities by the Federal authorities.

I think the first thing that might suggest itself is the advisability of expressly empowering the Interstate Commerce Commission to pass upon and approve all these traffic agreements that are entered into between the various roads at the present time.

Mr. HARDWICK. Is not there an existing law already on that subject?

Mr. MACLEOD. I did not understand that. I understood that either on the suggestion of the Interstate Commerce Commission or some other source they desired some express authority to pass on those agreements.

Then the consideration of this question, if it is probed to the bottom, will undoubtedly extend to a general inquiry with regard to transportation conditions in New England, and I believe that an inquiry of that kind would be of the highest public interest. I do not believe there is anywhere in the United States to-day where it is possible to show the operation of a railroad monopoly as it can be found to-day in New England; certainly in no territory of equal commercial and industrial importance, and I believe that if an investigation could be made of those conditions it might raise some doubt in the minds of the committee investigating the matter as to whether or not the present provisions of the act to regulate commerce are adequate to deal with a situation of that kind.

At the present time we have regulation, but we have regulation accompanied by competition, and the work of the regulating authority, State and interstate, is supplemented by the stimulus that comes from the natural competition and rivalry of independent railroads in the same community. In New England that condition does not exist, and my experience is that under those conditions there is a point beyond which the kind of regulation we have at the present time ceases to become effective. In other words, the regulating authorities may bridle a corporation to a certain extent, but many cases arise where it is not a bridle that is needed, but a spur, and it is absolutely impossible for any regulating authority to give initiative to the corporations under its control, and that initiative at the present time comes in other sections of the country from the stimulus of competition, where there are independent roads serving the same territory, and where it is absolutely obligatory on each road to go out and hustle for business on its own account and compete in service and facilities with the other roads if it is going to get the business. Where you have a situation where a single transportation agency controls the whole territory served, it does not make so much difference whether they are particularly active or not, and while the regulating authority, as I say, under the existing law may exercise a veto power on certain things that the company is doing or is projecting, it is impossible to have any real voice in the operation of the roads and in providing for the initiative and enterprise which are necessary in order to properly serve the community.

Mr. GARRETT. Would it trouble you to interrupt there for a moment?

Mr. MACLEOD. Not at all. I should very much prefer to answer any questions, because I have not prepared any formal statement.

Mr. GARRETT. To what extent would free competition between the Boston & Maine Railroad and the New York, New Haven & Hartford Railroad prior to the acquisition of the former by the latter, or such part of it as——

Mr. MACLEOD. There was competition between them, I believe, at some thirty-odd points of more or less commercial importance in the State.

There is another reason why I believe an inquiry of this kind should be made, and that is, that it is absolutely essential as I see it, for any kind of constructive railroad development in New England, that the present situation shall be absolutely probed to the bottom by every possible public agency and authority. The situation in New England at the present time is such—the public feeling against the New York, New Haven & Hartford Railroad is such; and by public feeling I do not mean entirely the feeling of the men on the street, but the responsible commercial bodies in the State; the shippers, banking interests, and every other agency which in any way touches the transportation situation in Massachusetts. The feeling at the present time is so intense and so vindictive that any constructive railroad program in Massachusetts and New England is impossible until this matter is probed to the bottom.

The CHAIRMAN. Let me ask you this question. Were the tracks laid on any part of this new line, and was the road operated anywhere?

Mr. MACLEOD. Nothing except the construction tracks for materials and supplies and building of the road.

The CHAIRMAN. How many miles in all?

Mr. MACLEOD. I could not say as to that.

I believe that an inquiry, the fullest kind of inquiry, is absolutely necessary in the interests of the railroad itself.

Now I am not one of those who is inclined to say that the present system is purposely wrong-headed. I believe that when this matter is thoroughly investigated it will be found that there have been a number of very valuable improvements that have been made by the New York, New Haven & Hartford Railroad upon the Boston & Maine system. Very important improvements are in progress, such as the electrification of the lines, and I believe that while much of the criticism is just, a large amount of the public criticism directed against the New Haven management at the present time is unjust, and that a proper, thorough investigation which will disclose facts, is going to finally get the situation at a point where it is possible for something to be done.

I believe that Mr. Buckland will tell you that it is practically impossible for the railroads at the present time to do their business as they should. They are so concerned with all these matters of public agitation that they are obliged to attend to other things besides running the railroads, but the only cure for that, as I see it, is to have the whole situation thoroughly probed, have the public acquainted with all the facts, give the railroads credit for all the good things that they have done, see just what the situation is, and then let us start and see whether or not it is not possible, by the adoption of a more reasonable and conciliatory attitude upon the part of the public and by the same attitude on the part of the corporation, to see whether

we can not get together in a spirit of compromise and conciliation that is absolutely necessary in order that railroad development in Massachusetts and New England should go on.

The CHAIRMAN. Is the New York, New Haven & Hartford authorized to do all these other things you speak of under their charters granted by the respective States through which it runs, to absorb the electric lines and things of that sort, or are they violating their charter rights?

Mr. MACLEOD. Mr. Mellen stated in the office of the railroad commission one day that under their Connecticut charter they could run anything from a railroad to a ship.

The CHAIRMAN. Under their charter rights?

Mr. MACLEOD. Under their charter rights.

The CHAIRMAN. Is that the case in Massachusetts and Rhode Island?

Mr. MACLEOD. I do not know what the situation is in Rhode Island, but the situation in Massachusetts in the main was accurately described in regard to the facts by Mr. Wood. While I do not pretend to adopt or accept his characterization, the facts in the main were correct.

There is just one other point that I should like to make clear, suggested by that inquiry. Reference has been made here to the inflated capitalization of the New Haven Railroad, owing to the purchase of trolley properties and other properties, at an amount largely in excess of their valuation. In so far as that situation may exist I think it is fair to point out that the State of Massachusetts is in no way responsible for that. The New Haven Railroad, unlike the Boston & Maine, does not come before the Massachusetts Railroad Commission at all for authority to issue any stock or bonds. Its financing is done under its Connecticut charter, and it can practically do what seems good to it in its own eyes, so far as that is concerned. But the New Haven contends that we have no authority under the law in any way to supervise the issue of stock for improvements which may be made in other States. I see Mr. Buckland has before him the report of the validation committee, which was a committee consisting of the railroad commission, the tax commissioner, and the bank commissioner, if I remember it, which sat a year or two ago for the purpose of determining whether or not the assets of the New Haven were in excess of its liabilities. I was not a member of the board at the time that validation was made, but I am familiar in a general way with the report which was made; and while the special commission had reported that the assets of the road were in excess of the liabilities, if you would take occasion to examine that report you would also find that the trolley and other properties that were purchased by the New Haven road at a very large expense were not regarded by this commission as having more than a fraction of the value which the New Haven paid for them.

Mr. BUCKLAND. Even so, Mr. MacLeod, the total assets, taken altogether——

Mr. MACLEOD. The total assets were in excess of the liabilities. That, it seems to me, is another question where this investigation might consider whether or not it is in the public interest to have some Federal regulation of the issue of stocks and securities by

railroad corporations doing interstate business. In so far as the capitalization of the New Haven Railroad may be inflated or excessive—and I simply put it in that way because we have no means of passing upon the matter officially—it means a large increase in the fixed charges of the company, which in turn is reflected in decreased service and facilities in the State of Massachusetts. It does not make any difference to us how careful we are with regard to the laws we pass in our own State with regard to the limitation upon the issue of these securities, I believe there is no State in the country—I think it is generally accepted and understood—where the capitalization of public service corporations is so carefully safeguarded as in the State of Massachusetts. But here we have an interstate road, and the kind of service they give in Massachusetts is conditioned by the fixed charges they have to pay upon their whole plant. We are made indirectly to assume the burden that may result from any improper capitalization. That is another matter which might properly be developed if this inquiry should be authorized.

The CHAIRMAN. Is there any movement looking to the revoking of the charter rights of this new road and putting it in the hands of a receiver in your State or in the other States?

Mr. MACLEOD. You mean the Southern New England?

The CHAIRMAN. Yes.

Mr. MACLEOD. There has been some movement taken by the governor and the attorney general, I believe, in Rhode Island with reference to the line of the Southern New England Railway Co., which represents a part of the Providence line, and I understand they have also filed a petition with the legislature in Massachusetts with reference to the Southern New England Railroad Co., which represents a part of the line in Massachusetts.

The CHAIRMAN. In the State of Massachusetts, where a road has secured a charter, has equipped the railroad, and commenced operations, have they the right to abandon the road, take up the tracks, and cease operations altogether?

Mr. MACLEOD. There is nothing in the general law that compels a railroad to build or to exercise any of the franchises which may have been given to it.

The CHAIRMAN. But after they have built the road?

Mr. MACLEOD. Oh, after the road is built and in operation it can not be discontinued without approval of some public authority, but that does not begin to become effective until the road has actually been in operation as a going concern.

The CHAIRMAN. But so far only construction work has been done on this road; I mean the tracks are only construction tracks and not permanent tracks?

Mr. MACLEOD. I understand that no permanent tracks anywhere have been laid.

Mr. LENROOT. You used the term “liabilities” a moment ago in speaking of the New Haven road. That term included the stock, I presume, as liabilities?

Mr. MACLEOD. Yes; it included liabilities of all kinds—stock, bonds, and indebtedness of all kinds. I believe that more information in regard to all the ramifications of the financial end of the New York, New Haven & Hartford can be obtained in that special report than in almost any other place I know of. The report was prepared with

exceeding care and contains a large amount of very valuable information.

Mr. LENROOT. What is the title of that report?

Mr. PERRY. "Report of Joint Commission on the New York, New Haven & Hartford Railroad Co." I will see that copies of this are filed.

Mr. BUCKLAND. In order to get at what was in Mr. MacLeod's mind, I would like to ask, How can there be an inflated capitalization, as the matter lies in your mind, if the combined stock and bonds are less than the appraised value of the property which they represent?

Mr. MACLEOD. I had nothing to do with the preparation of that report, but I understand in a general way that the fact of the preponderance of the assets over the liabilities was made possible largely through the appreciation of the value of the rights of way which the railroad had through the various cities and towns. And I do not mean to say that that was not an entirely proper matter to take into consideration in the kind of inquiry which was in progress at that time, but that was simply due to the working of an economic law, and I do not think that that would justify a railroad management of any corporation going out of the way and paying an unusual price for any properties which it purchased.

The fact that it does not make them bankrupt does not seem a sufficient excuse for making an improvident bargain.

Mr. PERRY. I have been in conversation with Mr. Cole, secretary to the Attorney General, who states that the original copy that the department had is now in the possession of Mr. Atkins in New York, but they have retained a copy here and are now having an additional copy made which will be in our possession by 2.30.

The CHAIRMAN. That will be sufficient.

STATEMENT OF MR. GEORGE H. HOLMES, REPRESENTING THE PROVIDENCE BOARD OF TRADE, PROVIDENCE, R. I.

Mr. HOLMES. I am a manufacturing jeweler of Providence. You have been listening in this hearing with more or less patience to statements from State officials, city officials, and more or less strenuous arguments from local talent. I wish you temporarily—which may relieve your minds—to transfer your viewpoint to the commercial side of this situation, and also to take your viewpoint from the viewpoint of the State of Rhode Island, which is affected more seriously, I think, by this situation than any other community in New England. I am directed by the officers of the Providence Board of Trade to appear before you in behalf of their members, and it is only in that capacity that I pretend to address you.

That organization, like similar organizations in other cities, comprises among its members the most important representatives of manufacturing, industrial, and commercial enterprises; but, unlike a number of similar organizations in other communities, it has surrounding it unusual conditions. It has already been alluded to, and I can not lay too much stress on the fact, that of the approximately two thousand manufacturing establishments in our State the combined value of outgoing shipments alone for their own products exceeds \$250,000,000 annually. Now, these same manufacturing establish-

ments are large consumers of raw material also, and they have incoming shipments of this raw material annually amounting to in excess of \$150,000,000.

The CHAIRMAN. In a general way, what is raw material?

Mr. HOLMES. Cotton, wool, iron, and steel chiefly. We are largely cotton manufacturers, large wool manufacturers, and our iron industry is large. The shipments of coal and other fuels also make a very large item.

Of course, in addition to those so-called raw materials, the importation, so to speak, of general commodities, provisions, etc., amounts approximately to another \$100,000,000 annually. Therefore I desire to call attention to the fact that in that little community the values of the shipments outgoing and incoming amount to in excess of half a billion dollars at a conservative estimate. Understanding that situation, there is no wonder that transportation facilities are of vital importance to us.

It so happened that it was my privilege on the 10th day of February, 1910, to present to the General Assembly in the State of Rhode Island a petition for a charter for the Southern New England Railway and the accompanying act of incorporation. At the announcement of that petition, of course, all our commercial interests were unusually aroused, and keen interest was manifested, and for a number of weeks statements from all our prominent citizens in favor of the project were numerous. I have for your perusal a compilation of the events connected with the adoption of the charter, compiled from the Board of Trade Journal, which is the official organ of the Providence Board of Trade. These statements are from absolutely leading business men of our community, men of even national reputation in their several industries, such men as Robert I. Gammell and William Gammell, and are absolute facts.

There is only one statement in this lot in connection with this whole matter which I wish to allude to at this time, and that is a statement by a man whose integrity and honor are unquestionable, and who is an avowed enemy of intrigue and whose statements are now hallowed by the sad memory of the fate that befell him. On February 18, President Hays of the Grand Trunk stated:

If the charter is granted the road will be built, and nothing that the New Haven can offer in traffic relations or other considerations can prevent our extending the Grand Trunk to Providence.

The plan to give Providence a competitive service is not in consequence of conflict on rates or differentials nor in any sense a retaliatory movement.

Our proposition to the assembly of Rhode Island is clean cut, and means nothing but what it says on its face. We will not beg and entreat where we should be welcomed with every expression of friendliness and satisfaction.

The CHAIRMAN. You wish to insert this statement in the record, then?

Mr. HOLMES. I do.

The CHAIRMAN. You may hand it to the stenographer.

Mr. HOLMES. At the same time I would like to have filed a resolution of the Providence Board of Trade on this subject.

The papers filed by Mr. Holmes are as follows:

Resolutions passed by the executive council of the Providence Board of Trade, November 25, 1912.

Resolved, That the executive council of the Providence Board of Trade indorses the action already taken by Attorney General Wickersham and his associates and by our Representatives in Congress, in their investigation of the situation in Rhode Island due to the abandonment of construction work on the Southern New England Railroad. We also extend to the Department of Justice at Washington and to our Congressmen, any assistance we can render in this investigation.

Mr. HOLMES (continuing). The events succeeding the application for the charter and pending its granting, as I have stated, resulted in a great many expressions of good will. Of course, the good will may have emanated from a natural desire to encourage new enterprises, and no doubt much of it may have arisen from a feeling of vindictiveness or rebellion against some grievance, either real or fancied, growing out of existing transportation facilities. But in any event the good will was so strong and so manifest that President Fitzhugh stated to me a few months ago that he considered the good will of the people of Rhode Island one of the strongest assets of his corporation.

The CHAIRMAN. Let me ask you this, so that I may get it fixed clearly in my mind: You have studied this question very exhaustively, as is apparent. Is it a fact that there is no water competition with this New Haven & Hartford road that inheres to the benefit of your people and those shippers you spoke of?

Mr. HOLMES. Not so considered, Mr. Chairman, because the transportation companies are controlled practically by the New York & New Haven Railroad.

The CHAIRMAN. So it amounts to a practical monopoly on land and on sea in so far as that commerce is concerned about which you were speaking?

Mr. HOLMES. Yes, sir; but in view of the fact that you have had so many statements to that effect I did not feel like reiterating that point.

Mr. BUCKLAND. Is it not a fact that the Colonial Line is entirely independent, operating between Providence and New York?

Mr. HOLMES. I think it is a fact. I intended to state later that these transportation facilities were practically all controlled, with one exception, by the New Haven road. I am not in a position to tell you the amounts of business carried over the Colonial Line, but it is considered an unimportant factor in the transportation of merchandise in and out of Rhode Island ports. I think it does more or less a passenger business. How much freight business it does, I am unable to state, but it is not a factor, and is not considered a factor among our shipping merchants.

Mr. FOSTER. Do you know whether this Colonial Line is hindered in doing business on account of the consolidation between the water transportation and this railroad? That is, if other transportation lines on water were freed from railroad influence, that then there would be real competition which does not exist now? Do you know whether that is true or not?

Mr. HOLMES. I do not know of my own knowledge. My own business does not carry me into the larger manufacturing shipments.

Mr. FITZSIMMONS. There are no railroad connections with that steamship line; absolutely none.

Mr. FOSTER. You mean that this little steamship line has no railroad connections with which it can do business?

Mr. FITZSIMMONS. Just a little toy line; it does not amount to anything.

Mr. LENROOT. It has no trackage facilities?

Mr. BUCKLAND. I want to say that the lines carrying standard cars of the New Haven road are brought up right by the line of the Colonial company on South Water Street in Providence, and any gentleman who knows the situation there knows that that is so. Whether there is traffic exchanged between them and the Colonial Line is a matter concerning which I am not advised.

Mr. FOSTER. You do not know that they have any arrangements at all? You have only looked into the traffic arrangements with their own steamship lines?

Mr. BUCKLAND. I only know that there is absolute authority in the Interstate Commerce Commission to require those arrangements to be made whenever it is brought to their attention.

Mr. FOSTER. Do they give the same opportunity to do business as they do with their own steamship lines?

Mr. BUCKLAND. I do not imagine that they have the same traffic arrangements that there are with our own lines, but it is not beyond the power of the Interstate Commerce Commission to require those arrangements to be made. What I directed my remarks to was the evident misinformation of the gentlemen, because our cars go right by the wharves of the Colonial Steamship Co.

Mr. DENVER. Do they stop there, or do they go on by?

Mr. BUCKLAND. They deliver all the way along.

Mr. HARDWICK. Do you accept trade from this Colonial Line?

Mr. BUCKLAND. I think we are bound to.

Mr. HARDWICK. But do you do it as a matter of fact?

Mr. BUCKLAND. As a matter of fact, I do not know, because I do not know the physical situation.

Mr. O'SHAUNESSY. May I ask, Mr. Buckland, at this juncture, if the proprietors of the Colonial Line were not formerly the proprietors of the Joy Line?

Mr. BUCKLAND. I do not know, sir.

Mr. O'SHAUNESSY. I have not the positive facts to bear me out, but I believe that the people who own the Colonial Line did own the Joy Line, which of course has been absorbed by the New York, New Haven & Hartford, and everybody is looking for the absorption of the Colonial Line before long.

Mr. BUCKLAND. That is not a fair assumption. Since that time the Panama Canal bill has absolutely prevented the absorption of such lines, and it is not fair to infer that such a thing is going on. In fact, I know it is not going on and nothing of the kind is contemplated, and it is not fair to infer that we are going to violate a law of the United States which was passed by this Congress.

Mr. HOLMES. In this connection I think it is perfectly fair to state, however, that if the same facilities were extended to the pier of the Colonial Line as are now extended to the so-called Providence Line, the Colonial Line would be doing a larger business than it is to-day.

Mr. HARDWICK. I wonder if you know whether any effort has been made to force this railroad company to do business with the Colonial on the same terms as with the others.

Mr. HOLMES. Not to my knowledge. Of course there is more or less talk about the ownership of new lines. We have had several of them come in there under different conditions, and they have all disappeared except this one. We can draw our own conclusions.

The CHAIRMAN. I want to say that there is a very able committee of the House investigating this very proposition, the Committee on Merchant Marine and Fisheries, and they propose to make an exhaustive investigation into such just propositions as this. If you gentlemen think it proper, it might be well to lay the facts before that committee. They were authorized and given almost a plenary power to go into these questions by a resolution from the Committee on Rules.

Mr. BUCKLAND. I have made a report on steamship lines which our company operates or controls, and also made a report, as required by that committee, on behalf of the New York, New Haven & Hartford Railroad Co., and on behalf of other rail lines as to their relations, and I have a personal communication from Judge Alexander, the chairman of that committee, stating that he will permit us to have a special hearing in regard to the peculiar situation in New England, and I had hoped to bring to the attention of the committee the very fact that that matter is now under consideration by that committee.

The CHAIRMAN. They have explicit power to go into this question. I did not mean to interrupt the line of your thought, Mr. Holmes.

Mr. HOLMES. I am glad to have these points brought up, although I am not here so much to argue the details of our situation as the general situation in which we are and which has resulted from this good will to which I have referred. As a result of that almost unanimous good will in our section and the competition, our commercial interests have practically entered into an agreement to exchange facilities on the Southern New England Railway. That agreement is threatened with abrogation, and we believe that as business men we are entitled to know whether it is to be abrogated. All appeals to parties concerned in the agreement have failed to clear the situation, and we believe that through an investigation of this kind we will be helping the matter regardless of any verdict that may be rendered by a grand jury or any other form of legal inquiry.

I think a business man's mind is, as a rule, somewhat different from the legal mind, in that he likes to make his own deductions from his own knowledge. By that I mean that if he is given all the facts in connection with the case he himself will determine who is in error, and he thereby satisfies himself for his future action rather than accepting the verdict of some judicial court. It is for that reason that I appeal to you in behalf of the board of trade to urge the passage of this bill, which will provide the information which they desire.

As to the bill itself, I wish to say that the board of trade does not desire to go on record as either urging or opposing the second paragraph of the bill, beginning "Said committee is also directed," etc. Nor have they any evidence to offer at this time in support of the so-called results which appear in the fourth paragraph on page 3, but they do desire to go on record as strenuously urging the provision of the third paragraph, which provides for an investigation or inquiry in regard to the present situation in Rhode Island brought about by the abandonment of work on the Southern New England Railway. We feel that a commercial wrong has been committed in our own State, and that an investigation of that act is demanded

in order to determine wherein the cause lies—whether it be remote or whether it be in the immediate vicinity of that depredation. And I ask you gentlemen to consider favorably this bill on the basis that you are emphasizing in a business community a moral commercial code—if there is such a thing—that has been offended in this instance by an important corporation or corporations, as may appear hereafter.

Reference was made in the early part of this hearing to certain work being done by the State of Rhode Island on the pier and harbor development. I, together with the mayor of Providence, who is here, and Mr. Samuel M. Conant, the chairman of that commission and a member of the State Harbor Improvement Commission, have under supervision the construction of this pier. In connection with the construction of that pier correspondence has passed between the representatives of the Southern New England Railway and that commission, and I desire now to offer to you, in behalf of the State Harbor Improvement Commission of Rhode Island, this correspondence. We thank you very much for the time you have allotted to us.

The correspondence introduced by Mr. Holmes is as follows:

STATE HARBOR IMPROVEMENT.

PROVIDENCE, R. I., *November 11, 1911.*

SAMUEL M. CONANT, Esq.,
*Chairman State Harbor Improvement Commission,
Statehouse, Providence.*

DEAR SIR: The Southern New England Railway Co. desires to lease for its corporate purposes for such time and upon such terms as may be agreed upon the northerly side of the new pier about to be constructed by your commission.

Please consider this a formal application for such a lease, and I suggest a conference in the near future, as the Southern New England Railway Co. is anxious to know at as early a date as possible, in order that it may perfect its plans for the utilization of this pier, whether your commission will grant the lease herein asked for.

Yours, very truly,

(Signed) JOHN S. MURDOCK,
Attorney for Southern New England Railway.

The above is a true copy of the original application for a lease of the northerly side of the new State pier, sent to Chairman Conant, of the State Harbor Improvement Commission, by Attorney John S. Murdock, of the Southern New England, under date of November 11, 1911.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., *December 7, 1912.*

PROVIDENCE, R. I., *October 30, 1912.*

JOHN S. MURDOCK, Esq.,
*Vice President Southern New England Railway Co.,
1039 Grosvenor Building, Providence, R. I.*

DEAR MR. MURDOCK: It is the opinion of the State Harbor Improvement Commission that an early conference is desirable in relation to the new State dock. The lease should come up for early consideration, together with the layout of the track.

Will you be kind enough to take this matter up with your people and notify me as soon as possible as to a time when you can meet the commission in conference.

Cordially, yours,

(Signed) SAMUEL M. CONANT,
Chairman State Harbor Improvement Commission.

The above is a true copy of the original of a letter sent by Chairman Samuel M. Conant, of the State Harbor Improvement Commission, to John S. Murdock, under date of October 30, 1912.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., *December 7, 1912.*

SOUTHERN NEW ENGLAND RAILWAY CO.,
Providence, R. I., October 31, 1912.

Mr. SAMUEL M. CONANT,
Chairman State Harbor Improvement Commission,
Room 322, Statehouse, Providence, R. I.

DEAR MR. CONANT: I received your letter of the 30th, suggesting a conference in relation to the State wharf. I have written Mr. Fitzhugh, and we will arrange a meeting as soon as engagements will permit.

Yours, very truly,

(Signed) JOHN S. MURDOCK,
Vice President.

The above is a true copy of the original of a letter received by Chairman Samuel M. Conant, of the State Harbor Improvement Commission, from Vice President John S. Murdock, of the Southern New England Railway Co.

H. M. BARRY, Notary Public.

PROVIDENCE, R. I., December 7, 1912.

SOUTHERN NEW ENGLAND RAILWAY CO.,
Providence, R. I., November 6, 1912.

Mr. W. D. BULLOCK,
Civil Engineer, City Hall, Providence, R. I.

DEAR SIR: In regard to your conversation with me the other day about the 6-inch girder rails to be used on the State dock, will you kindly advise me how many feet will be required on the dock, giving me the Southern New England Railway's portion, also the portion which will be used by the city, and any other railroads.

We are making a requisition for these rails, and I would like to have the correct amount.

A small sketch of the dock showing where these tracks will be laid will be greatly appreciated.

Thanking you, I beg to remain, yours, truly,

(Signed) T. I. ELLIS,
Division Engineer.

The above is a true copy of a letter received by W. D. Bullock, chief engineer on the State pier project, from T. I. Ellis, division engineer of the Southern New England Railway.

H. M. BARRY, Notary Public.

PROVIDENCE, R. I., December 7, 1912.

MAYOR'S OFFICE,
Providence, R. I., November 13, 1912.

At this date the State Harbor Improvement Commission, with all members present, met, for a conference on the question of the abandonment of work on the Southern New England Railway by the Grand Trunk Railway system, President E. H. Fitzhugh and Vice President John S. Murdock of the Southern New England.

Gov. Aram J. Pothier accepted an invitation to be present also.

Mr. Fitzhugh was requested to give an explanation of the attitude of the Grand Trunk system with reference to the work on the Southern New England, and talked for a time with the commission, first, however, making the request that no record be made of his statements. He said that he had been acting under instructions to discontinue work on the Southern New England branch.

At the conclusion of the conference, the following statement was issued to the press:

"A conference was held in the mayor's office, Providence, to day, at which were present the following named: President E. H. Fitzhugh and Vice President John S. Murdock of the Southern New England, Gov. Pothier, Mayor Fletcher, Chairman Samuel M. Conant and George H. Holmes of the State Harbor Improvement Commission, the latter representing also the special committee of the Providence Board of Trade.

"The general situation was discussed in an informal manner. Mr. Fitzhugh made the statement that he had had no negotiations, directly or indirectly, with the New Haven road officials, and until further advised he felt he could make no further statement at the present time. His orders to stop the work in Rhode Island, he said, came to him from the management of the Grand Trunk."

After the preparation of the above, the commission adjourned to November 14, at 10.30 a. m.

The above is a true copy of the records of the State Harbor Improvement Commission, under date of November 13, 1912, including a statement to the press to which Mr. Fitzhugh gave his assent.

H. M. BARRY,

Notary Public, and Secretary State Harbor Improvement Commission.

PROVIDENCE, R. I., December 7, 1912.

PROVIDENCE, R. I., November 13, 1912.

Mr. E. J. CHAMBERLIN,

President of the Grand Trunk Railroad, Montreal, Canada.

DEAR SIR: In common with the State of Rhode Island, the city of Providence, and other State interests, the Rhode Island Harbor Improvement Commission have, through representations and requests of officials of the Southern New England Railway Co., made changes in the State dock now under construction to accommodate the entrance of the Grand Trunk, or its subsidiary, into this territory, and have gone to some expense therefor.

It was voted at a meeting of the commission, held to day, that the chairman address a letter to the president of the Grand Trunk, acquainting him with the obligations and changes in the construction of the State dock due to the requests from the engineers of the Southern New England.

As a commission, we deeply deplore the cessation of work on the Southern New England Railway, and are anxiously awaiting definite news as to a general resumption of the work at some near-by time.

In fact, the State Harbor Improvement Commission, acting for the State of Rhode Island, respectfully requests a decided and comprehensive reply from you as to whether the work on the Southern New England Railway is to be discontinued by the Grand Trunk or resumed in the near-by future, or, as has been represented by newspapers of New England, it will be definitely abandoned or taken up at the pleasure of some other railroad system.

We remain, respectfully, yours,

(Signed) STATE HARBOR IMPROVEMENT COMMISSION,
SAMUEL M. CONANT, *Chairman.*

The above is a true copy of the original of a letter sent by Chairman Samuel M. Conant, of the State Harbor Improvement Commission, to E. J. Chamberlin, under date of November 13, 1912.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., December 7, 1912.

Providence, R. I., December 4, 1912.

Mr. E. J. CHAMBERLIN,

President Grand Trunk Railway System, Montreal, Canada.

DEAR SIR: On November 13 I addressed a letter to you, as chairman of the State Harbor Improvement Commission, of Rhode Island, asking for information in reference to the position of the Southern New England Railway as to the completion of the work already begun by them, and stating that we had made changes in the construction of our State pier, due to requests of engineers of the Southern New England Railway Co.

We complied with these requests, after consultations with President Fitzhugh and Attorney John S. Murdock, and upon the formal application for a lease, made November 11, 1911, and signed by John S. Murdock, attorney for the Southern New England Railway Co.

As chairman, I have had no reply from you, and would suggest that, as we are acting for the State of Rhode Island and her deck facilities, it would be courteous to the State and the Commissioners to give us what information lies within your power as to the future of the Southern New England Railway and the incompleted gash left in our territory.

Respectfully yours,

(Signed) SAMUEL M. CONANT,
Chairman State Harbor Improvement Commission.

The above is a true copy of the original of a letter sent by Chairman Samuel M. Conant, of the State Harbor Improvement Commission, to E. J. Chamberlin, under date of December 4, 1912.

H. M. BARRY, *Notary Public.*

PROVIDENCE, R. I., December 7, 1912.

STATEMENT OF HON. WILLIAM F. MURRAY, A MEMBER OF CONGRESS FROM MASSACHUSETTS.

Mr. MURRAY. Mr. Chairman and gentlemen, it has been suggested that I may be able to help the committee in this matter, and it is only because I think I may be able to help the committee that I have signified a willingness to address the committee at this time. My reason for believing that I may be able to help the committee is that as a member of the Massachusetts Legislature during 1907 and 1908 I was called upon, as the other representatives and senators were called upon, to consider the relations of the New York, New Haven & Hartford railroad to the traveling public, and because I also considered that question as a member of the governor's council of Massachusetts, having served on the council of Gov. Draper who has been referred to here.

To-day and all during this hearing I have tried to look at this thing not only as an active Member of the House of Representatives from the State of Massachusetts but also as a colleague of you, Mr. Chairman, and you, gentlemen. I have tried to put myself in the position that you are in in regard to this thing, and I have asked myself, "Why are these men here; what do they want; what can we do to help them?" I am going to take the last of those questions first and consider that, because unless we can help them it does not make much difference what they want or why they are here. If we have not the power to help them it is hardly worth while to consider their mission.

The first article of the Constitution of the United States defines the powers of the Congress of the United States, and very early in that article we find that Congress is given power to regulate commerce with foreign nations and among the several States. Now, this transportation problem that we are attempting to have solved here this morning is entirely an interstate question. Indeed it has some international features, because we are up there on the Atlantic seaboard. Boston, Providence, and the other manufacturing centers of New England are shipping to all parts of the world, and by reason of that condition this question has some international features that might seriously engage the attention of this committee.

But whether it has international features or not, it surely has interstate features. You, Mr. Chairman, come from the great State of Texas, and your district probably comprises a total number of square miles as great as that of all the New England States put together. I suppose it is difficult for you to realize that when places are only 40 miles apart one of them may be located in our Commonwealth of Massachusetts and the other in the great State of Rhode Island. It must be more difficult to realize that Palmer is in the State of Massachusetts, although it is only a few miles from the great seaport town of Rhode Island—the city of Providence. It is an interstate problem, and the Legislature of Massachusetts and the governor of Massachusetts could not cope with that situation. We tried, but we could not do it. Under the constitutional provisions that require that our State give due consideration to the acts of the State of Connecticut, to the acts of the State of Rhode Island, to the acts of other States, we could not do things that this Congress can do and that we are asking you to do.

The definite thing that we are asking you to do is to appoint a special committee, composed of seven men, to investigate certain things. Those things may all be summarized in the statement that it is an investigation of the transportation problem of New England that we are asking for. It was suggested here a few moments ago by the skillful counsel of the New Haven road—and the New Haven always has skillful counsel—that the Committee on the Merchant Marine and Fisheries was to conduct an investigation. Yes, I voted, as you voted, to put that resolution through. We authorized them to investigate the relations between the New Haven Railroad and the New England Navigation Cos. That is practically all, Mr. Buckland, that the Committee on Merchant Marine and Fisheries can do under the rules of the House of Representatives, because that is the Merchant Marine and Fisheries Committee. That committee has power to investigate those problems pressing for solution before the Congress of the United States which have to do with the sea.

Mr. BUCKLAND. But the scope of the resolution is much broader.

Mr. MURRAY. Let us get the resolution. Let us not go off on a tangent. That has been the whole trouble during this investigation. This resolution covers four pages and has many clauses; but to summarize that resolution, it provides for an investigation of transportation manipulation in New England. While there may be much language to that resolution empowering the Merchant Marine and Fisheries Committee to investigate; while there may be many sections and much detailed language, as a practical proposition it is required to investigate, and can investigate under the rules of the House of Representatives, only the relations between the New Haven Railroad and the shipping companies that may be doing business with it. And I stand on that statement, and you, Mr. Chairman, know that I am standing on safe ground.

The CHAIRMAN. Mr. Murray, I just want to say this, that in addition to the power given to the committee under the general rules, this committee reported a special resolution adding vast powers to the general power of the committee in regard to these questions.

Mr. MURRAY. Let us find out where we stand. Do you agree with me or not that all that is required to do may be summarized in an investigation of the relations between the transportation company and steamship companies of the United States and foreign nations? I think I am right.

The CHAIRMAN. I can not be sure of that until I look at that resolution.

Mr. MURRAY. There is the resolution.

The CHAIRMAN. I have not read it for some time. Just proceed with your argument.

Mr. MURRAY. The New England Navigation Co. is a subsidiary company of the New Haven corporation. It has a total capitalization of something like \$56,000,000. If I am not right, I hope the gentlemen representing the railroad will correct me. That is a little more than one-tenth of the total capitalization of the New Haven Railroad, which during the last 10 years has grown from a capitalization of less than \$100,000,000 to something like \$87,000,000—to a capitalization that approaches a half-billion dollars; and yet this problem is dismissed with the suggestion that the Merchant Marine and Fisheries Committee is going to investigate one side of it and

that therefore no select committee should be created by this Committee on Rules. That to my mind is entirely ridiculous, because it will simply hit the high places in regard to a particular side of the proposition.

Now, Mr. Greene of Massachusetts, a Republican member of that committee, is here. He is my good friend; I like him; I know he is efficient; I know he is honest; I know he is thorough in the works he undertakes. I would not have him for the world think that I am criticizing him either publicly or privately or attempting to cast any aspersions on his efficiency. I hope that when my record of Congressional service is completed I may be able to point to a record that approaches in its perfection the record that he has made here. But it is not right to expect him and Judge Alexander and the gentlemen of this Committee on Merchant Marine and Fisheries to attempt the work of investigating this great transportation problem, when under the rules of this House of Representatives, as defined under the manual and under the resolution, which they say has merely enlarged their powers, they are entirely restricted as a matter of fact of common sense to an investigation into the Merchant Marine and Fisheries side of the proposition. Now, Mr. Chairman, I have been on committees, and I have watched committees work under the State legislature when the New Haven counsel have been present. What will be their attitude when they go in before the Merchant Marine and Fisheries Committee and an attempt is made to investigate not only the sea side of this proposition and the relations between the transportation company and the water company, and some enthusiastic member of that committee, desiring to see right and justice done, proposes some question that may inquire into the relations between that company and the street-railway companies of New England? Immediately the counsel would be upon his feet suggesting that this matter is entirely beyond the scope of the resolution, and you will always find him saying, "While we have no objections, we do hope that this inquiry will be restricted in the way the rules provide."

What we want is a select committee that shall not be restricted to a given side of this question. We want a committee that can go into practically all sides. I am told that there are other committees of the House of Representatives that could investigate this matter. The great Judiciary Committee could investigate it under the rules of the House of Representatives. It could consider the corporation and trust sides of this question, and I know, and you know, that the Judiciary Committee could probably undertake an investigation of practically everything covered by that resolution so ably drawn by Mr. O'Shaunessy. But what is the practical situation with regard to the Judiciary Committee? You, Mr. Chairman, are a member of that committee. You know that of the membership of that great Judiciary Committee, seven of them are conducting the impeachment proceedings that our House of Representatives ordered them to conduct at the bar of the Senate. Those seven men include four majority members and three minority members, and the able and distinguished chairman of the committee, our colleague from Alabama, is one of those seven. Is it fair to expect the Judiciary Committee to be able to give its attention to this thing until after this impeachment proceeding is ended? You and I know that it is bound to take up to

the holidays, and probably beyond the first of the year. As a practical matter, even if the Judiciary Committee could do this work, it can not do it now.

I realize that under the rules of the House of Representatives the great standing Committee on Interstate and Foreign Commerce could give its attention to this matter, because under the rules as they have been construed that committee has jurisdiction over subject matters similar to the one contained in the resolution. But what is the practical situation? It is a regrettable thing, and we are all sorry to know it, that the able chairman of that committee, Judge Adamson of Georgia, has to leave Washington to be with his lovable wife in what are probably her last days. We know that the members of that committee, out of respect to their able chairman, are not giving attention to many of the great problems that are before them, and it is not fair to expect that committee to undertake this great work; at least not until after the first of the year.

Those are the facts, Mr. Chairman. You and I know them to be facts, and you and I know that the only practical way in the closing days of this busy short session of the House of Representatives to get this inquiry conducted and ended is to have men selected who are not tremendously busy with other things, who will give their entire time and attention to the work for which they may be selected.

Now, is it desirable to have them selected?

The CHAIRMAN. May I suggest there that probably the Attorney General will have worked out this matter?

Mr. MURRAY. I ask, is it desirable? I like the Attorney General; I think he is a great man and I have said so publicly. The reason I admire him is because I served on the Committee to Investigate Expenditures in the Department of Justice, and the Attorney General has been a frequent witness before that committee. I think he is entirely honest in his administration of the Department of Justice, and while I have often differed from him and from his chief, President Taft, the basis of my criticism has never been that I doubted that honest motives and sincere beliefs underlie their judgment. But the fact is that the people of Massachusetts and of New England are not at all satisfied with the way the Department of Justice and the Executive branch of the Government have handled this New Haven situation.

Mr. HARDWICK. Possibly they will be better satisfied after March 4th. We hope so. [Laughter.]

Mr. MURRAY. Of course; and, Mr. Hardwick, as a basis of making them thoroughly satisfied, I want to see a separate committee appointed that will get the facts of this case before us, so that whoever may be Attorney General may proceed not only before a grand jury—it is all right to go before a grand jury, get an indictment, go through a trial, and convict a man——

The CHAIRMAN. Is there not great danger of creating a panic?

Mr. MURRAY. Of course, you and I have heard that objection urged——

Mr. HARDWICK. I want to direct Mr. Murray's attention to one or two things that are troubling me, but are not peculiar to this one resolution. In the first place, I do not conceive that it is any function of Congress or any of its committees to order an investigation except for legislative purposes. If the purpose of the investigation

is merely to give publicity to facts, if the purpose of the investigation is merely to call attention to the fact that some department has or has not done its duty, then it is not in my judgment a correctly taken proceeding, because the only right we have, under numerous decisions, in ordering these investigations is to get information so that we may know how to legislate.

That brings us right down to this question: Is there anything in the pending proposition that seems to indicate a necessity for additional law? If so, I would like to have you address yourself to that for a minute.

Mr. MURRAY. I am not going to give any snap judgment on that.

Mr. HARDWICK. I am not trying to get that.

Mr. MURRAY. I understand your suggestion. You and I are talking here just the same as we talk individually or in the House in a matter that is of common concern. I do not know what good can come from this investigation. I know that investigating committees are not in great favor here just now. I know it has been the fashion to criticize the work of investigating committees. But, to cite one instance, I know that the people of Lawrence, Mass., are much happier to-day than they were a year ago to-day. They had splendid meetings of patriotic citizens, doing a great public good, only as recently as Thanksgiving Day, and I believe that a large reason for the increased happiness of the people of Lawrence, Mass., is because of the work that this committee did last winter.

Mr. HARDWICK. We did not order an investigation in that case.

Mr. MURRAY. You did not order an investigation in that case; you conducted an investigation. If you will do it with respect to the New Haven situation just as you did with respect to the Lawrence, Mass., situation, I shall be satisfied, and I believe everybody in New England will be satisfied. What we did with respect to Lawrence was to apply to the problems of Lawrence, Mass., a judgment that was not warped and colored by a personal bias and did not have the personal equation running all through it.

That is the great trouble in Massachusetts now. Mr. Mellen thinks that Mr. Brandeis is probably one of the worst citizens in the world, and Mr. Brandeis thinks that Mr. Mellen is probably one of the worst citizens in the world. These men look upon one another as men who are actuated solely by personal motives, as personal enemies, each one of whom is trying to thwart the other. You can not get anywhere as long as men apply to problems like these considerations of that sort. But men who are down here in the House of Representatives, men who compose this Rules Committee, and men like you can bring to the consideration of these public questions the kind of judgment and the kind of thought that I believe to be essential if we are going to reach a right conclusion.

The CHAIRMAN: What about the investigation that is going on under the auspices of the Interstate Commerce Commission in regard to this matter?

Mr. MURRAY. I want to send my mind back to the time when it was proposed to investigate Lawrence, Mass. We were told, "The Bureau of Labor is investigating Lawrence. An executive branch of the Government is doing this thing in most satisfactory fashion, and we ought not therefore to have a congressional committee conduct this partisan inquiry." When it was proposed, under your motion,

to create the Stanley Steel Investigating Committee, we were told that Commissioner Neill was doing all the work that could possibly be done. We were told that the great industrial commission had gone over everything that could be possibly considered in connection with that matter, and that every scrap of testimony that a congressional committee could hope to get was already buried in the voluminous report of that great industrial commission. When it was proposed to investigate, under the leadership of the brilliant gentleman from Georgia, the Sugar Trust, we were told the same sort of thing.

I am one of those who believe that the Lawrence investigation resulted in great good. I am one of those who believe that the Stanley steel investigation resulted in great good. And I know that the work done by the Hardwick Investigating Committee in this very room was a really systematic and valuable contribution to the case. I hope that the same sort of thing may result from this investigation, if it is ordered. Perhaps I am enthusiastic. Surely I am young and I may have the enthusiasm of youth, but my hope is that these arguments that are made here are on all fours with the objections that were made with respect to the select committees that were created in the other cases.

The CHAIRMAN. I think the sugar investigation brought about the putting of sugar on the free list, but I am not sure that it met with universal approval.

Mr. MURRAY. I think we got more votes on it than on any single factor in the campaign. [Laughter.]

The CHAIRMAN. I think it helped a great deal. I am just throwing out these suggestions to you because we are getting advice from several quarters that these matters are being investigated now by a different tribunal and by various departments and machinery of the Government.

Mr. MURRAY. Mr. Chairman, in my legislative experience I used to hear from men like the gentleman from the New Haven Railroad certain stock phrases, stock objections to the consideration of legislation. I remember that whenever we had any of these transportation problems before us we were always told about the policy of the Commonwealth. We were told that the policy of the Commonwealth with respect to transportation problems was so and so. We were given reasons about that continually and constantly, and we are given here in Congress pretty much the same kind of general objections that are always applied to such a situation. They do not talk so much here about the policy of the Government as they do in the Massachusetts State Legislature, but they talk about the activities of coordinate branches of the Government.

You and I are representatives of the people. The people know us. The people in your district know you and like you. The people in my section know me. The American people almost entirely know some Member of Congress either in the House or in the Senate. They have concrete knowledge about them; it is not an abstract proposition. But the men in the executive branches of the Government do not have the close relations with the people which by virtue of their positions they are expected to have. What the Department of Justice does may be of interest to some classes of our citizens. What the Bureau of Labor does may be of interest to some classes of our citizens. But what the Congress of the United States does, and what

a committee of the sort we propose to have created here will do, is to focus the attention and to get these things into the minds of the people, without bias, without prejudice, but in a clear-cut fashion that will be the forerunner of the settlement of all these problems.

You, Mr. Chairman, made the best argument that I have heard in this whole hearing. You suggested that the result of the sugar committee's work was to put sugar on the free list. I believe that is true. I believe the same sort of good can be done by a committee of the sort proposed with the respect to the transportation problem. I believe the result of such a committee's activities would be to solve that problem; and the best evidence that it needs to be solved is the statement, rather flippantly made, "We have been under investigation for six years——"

Mr. BUCKLAND. Not flippantly, but seriously.

Mr. MURRAY. Very well; I withdraw the suggestion. But, seriously or flippantly, the statement was made that they have been under investigation for six years, and the situation to-day is in my opinion worse—and I am not a pessimist—than it was five years ago.

The CHAIRMAN. Just a suggestion here. This raises a very interesting question in my mind, and I would like to know from you, and later from Mr. Walker, if he cares to discuss it—the author of the History of the Sherman antitrust law—just what power our Government has under the present antitrust law to deal with questions of this sort. That is to say, where a corporation in this country enters into combination by agreement with corporations or individuals in Canada, or England, or some foreign country, just what power we have to deal with that question under existing law, and if there is not sufficient power. Might not this bring out facts that would throw light on the problem so that we might base some legislation on it?

Mr. MURRAY. I think that is so, and I will give you an authority—the Attorney General of the United States. The Attorney General gave me one of the best law lectures I ever listened to in my life when he appeared before our committee one morning and was asked questions by the gentleman from Kentucky, Mr. Cantwell, and the gentleman from Texas, Mr. Beall, and the gentleman from Mississippi, Col. Witherspoon. It was just about the time of the Tobacco Trust decision, and those gentlemen all interested each in a particular problem that affected his locality, and especially interested in the attitude of the Attorney General with respect to that problem. Mr. Cantwell, for instance, was much disturbed about the activities of the department with regard to the tobacco farmers down in Kentucky, and he wanted them to know about that sort of thing. Mr. Beall was interested in the attitude of the department with respect to the prosecution of men who had combined to increase the price of cotton. Judge Witherspoon was also interested in that phase.

After answering the special questions that were asked of him, the Attorney General made a statement with respect to the field of the borderland of the law, in which borderland of the law were thousands of cases that might be within the Sherman law, or that might be entirely outside of that law, and to which that law did not apply.

And he described to our committee just what the situation was with respect to those problems. Incidentally, he had a suggestion with regard to an industrial commission, which I did not believe in and which I do not suppose many of those on our side do believe in;

but he did point out clearly the lack of certainty that exists in the minds of the business men of the country and the best lawyers of the country with respect to how far the Government of the United States can go in a matter of this kind. And if there is uncertainty and doubt in the mind of the Attorney General of the United States and the best lawyers of the country, certainly it is a question that should engage the attention of the law-making branch of the Government to define what we have and to add any new legislation that seems to be desirable.

I think that is the best answer to that question that I can possibly give, and I think that a great good would come from recommendations to define what is or what is not the point of view of Congress with respect to this borderland of the law and to existing statutes, or to recommend such new legislation as in the opinion of the members of the committee that may be appointed should be drafted. I think great good will come along those lines.

Mr. HARDWICK. Suppose we were to report this resolution authorizing the Committee on Interstate and Foreign Commerce, by any subcommittee that might be designated for that purpose, to investigate this matter. Now, the difficulty about the Stanley committee and the Sugar Trust committee to which you so kindly referred——

Mr. MURRAY. It was not intended as a matter of kindness but as a deserved compliment.

Mr. HARDWICK. That makes the obligation all the deeper. To go back a minute, the special committees are in this shape. They might investigate day after day, week after week, and month after month, and work their heads off. When they get through they find themselves in the position that, if legislation is what they were driving at—and that is what they ought to be driving at, except for incidental results—they can not report such legislation to the House. The jurisdiction belongs to some one of the standing committees, and all the work has to be turned over second-handed to one of these standing committees to get results.

Mr. MURRAY. Let me give you a suggestion before you conclude. Let me say to you that I have considered very carefully that phase of the matter, or as carefully as I can. It is now close to the end of the 62d Congress. It is unreasonable to expect and suppose that any legislation can come, no matter how desirable it may be, and no matter how generally desired it may be, during this session of Congress from any work that any committee, standing or select, may do in these premises.

Mr. HARDWICK. That is very true, but here is the consideration. The committees go on from Congress to Congress with their personnel largely unchanged.

Mr. MURRAY. Will the personnel of the Judiciary Committee be much changed in the next Congress?

Mr. HARDWICK. As far as the Democratic side is concerned it will not be much changed.

Mr. MURRAY. As far as the Republican members are concerned there is not one of them returning.

Mr. HARDWICK. This jurisdiction would probably apply to the Committee on Interstate and Foreign Commerce, in my opinion.

Mr. MURRAY. The only New England member is Mr. Gould, and he is not coming back.

Mr. HARDWICK. I thought the idea was that the New England people were taking sides so rabidly on this subject that probably they would not be impartial judges. The personnel of that committee in the 63d Congress will not be materially changed. Whatever legislation results from this thing must come from that committee. If we could get a subcommittee from that committee, composed of members who were going to be on the next Committee on Interstate and Foreign Commerce, would we not have all this information where it could be used at first hand better, and would not every substantial purpose be accomplished just as well?

Mr. MURRAY. Who will appoint that subcommittee?

Mr. HARDWICK. I would suppose the chairman, or acting chairman.

Mr. MURRAY. It is only because of the absence of the chairman of that committee, the gentleman from Georgia——

Mr. HARDWICK. I understand the situation is not so serious as was feared, and we hope he will be back in a few days.

Mr. MURRAY. I hope so.

Mr. HARDWICK. At any rate, during his absence Judge Sims, of Tennessee, is acting as chairman. He can appoint a subcommittee if we report the resolution in that form. You would have a special investigation just the same, and you would have it made by men who have legislated on this very question. So, just giving you frankly and tentatively how I feel about it, it seems to me that would be best.

Mr. MURRAY. Personally, I do not care whether it is a special committee or a subcommittee of the Committee on Interstate and Foreign Commerce.

Mr. O'SHAUGNESSY. That is my stand, Mr. Hardwick; I want action, that is all.

Mr. MURRAY. I hope you will not allow this matter to go off on a tangent with respect to the suggestion about the Merchant Marine and Fisheries Committee, or with respect to suggestions made about the Department of Justice and the Interstate Commerce Commission. I think this ought to be taken up by Congress, and, personally, I do not care how you do it if only you do. In the absence of questions, I have nothing further to say.

Let me suggest that the city of Boston is represented here by the assistant corporation counsel, Mr. George A. Flynn, who is willing to tell the committee anything it may care to know.

STATEMENT OF MR. GEORGE A. FLYNN, ASSISTANT CORPORATION COUNSEL, BOSTON, MASS.

Mr. FLYNN. Mr. Chairman, there is very little I can say in addition to the remarks made by Mr. MacLeod and by my friend Congressman Murray. I came here at the request of Mayor Fitzgerald, who, by reason of the pressure of other official business at home, was unable to attend in person. But he feels, and the citizens of Boston, speaking through him, feel very strongly the need of publicity in this matter. The citizens of Boston, individually and through their commercial bodies, board of trade, etc., are very much interested in the connections of the Grand Trunk in the city of Boston. In Massachusetts it comes in through the Southern New England Railroad. The committee may know already that within the last year or two the Commonwealth of Massachusetts has appropriated \$9,000,000 for the

development of the port of Boston. As Mr. MacLeod well said, that appropriation was procured and made much easier by the looked-for advent of this new railroad which would add to our transportation facilities.

As you know, Boston is the metropolis of New England, the gateway of the commerce of New England, and the prosperity of New England depends on the increase of our commerce. I doubt if there is any section of the United States of equal area where there is so much commerce. The people of Boston are much disappointed by the stoppage of work on this improvement which they hoped would give them additional facilities. We believe that an investigation by Congress is the best means of procuring publicity, seeing whether or not any law has been violated, and if there is any assistance that Congress, through additional legislation, may give the people of Massachusetts.

STATEMENT OF CITY SOLICITOR BLODGETT, PAWTUCKET, R. I.

Mr. BLODGETT. Mr. Chairman and gentlemen, I would like to leave with you a plan which shows the elevations of the road of this proposed New England branch, and also a map of the city which shows the right of way which they take.

The plans referred to were filed with the clerk to the committee.

Briefly, my testimony in regard to this matter is cumulative, and I can only say that we stand back absolutely of what every other speaker has said here in regard to us. Here is this company which has come in there, and the steam shovel has bisected some of our principal streets and avenues to provide an approach from the west. It has unfortunately apparently died there, and, so to speak, there is a stink from it that goes up to heaven. There does not seem to be any way in which we can get at it. If it were only the Grand Trunk Railroad, that would be a different thing, but here is the Southern New England, which is nothing practically, you might say, but a branch corporation in a way, a corporation whose only assets are what it gets from its parent, the Grand Trunk. And yet the Grand Trunk has absolutely, either directly or indirectly, as far as we know, no connection with this scheme, so that we have no legal remedy.

You gentlemen have been considering the matter of how you could give us a remedy, which is, of course, the nub of the whole thing. These two days that we have had here have shown conclusively to my mind how important these things are, how the situation is easing itself even at this moment, how we have assurances from Mr. Chamberlin which we have never had before, and from Mr. MacLeod. These things are being developed, and will be in the course of any investigation that is made, whether by a special committee or a standing committee. But the method should be by investigation, something that will bring out the facts differently from the way in which they are brought out in a court of law. If you make a general investigation you get all kinds of testimony, heresay testimony and so on, and all kinds of matters come in, and the situation clears itself.

STATEMENT OF HON. R. P. DAIGNAULT, MAYOR OF WOON-SOCKET, R. I.

Mayor DAIGNAULT. Mr. Chairman, I represent Woonsocket, the third largest city in the State of Rhode Island. The ground has been so thoroughly covered by Mr. Bliss, a member of our public utilities commission, and Mr. Baker, and Mayor Fletcher, and others, that anything I might say would be only repetition. I want to say, however, that the conditions in Woonsocket are the same as they are in Providence and other parts of the State. We have the same grievances, only a little more so, because Woonsocket is an inland city. We have no tidewater facilities. Not a pound of freight can enter the city of Woonsocket unless handled by the New Haven road.

I want to go on record as being in favor of this resolution of Mr. O'Shaugnessy's. I say, as has been said here before, that if the committee or anybody else sees fit to amend it, why that is very fair. But we want to go on record as asking for an investigation, hoping that a whole lot of good can come to the State of Rhode Island and all the New England States. I thank you.

STATEMENT OF HON. THOMAS L. REILLY, A MEMBER OF CONGRESS FROM CONNECTICUT.

Mr. REILLY. Mr. Chairman, I simply wish to state that I believe the greatest satisfaction and the best possible solution of all the troubles that certain parts of New England, and particularly Rhode Island, Massachusetts, and Connecticut, are laboring under may be brought about by an investigation. I do not think anything else will satisfy the people. The New York, New Haven & Hartford Railroad has its home office in my district. I believe that in justice to that great corporation there should be an investigation, but more especially in justice to the great public who believe—and in many cases, I think, believe justly—that they are being discriminated against and that they are in the clutches of a great corporation. I believe there should be an investigation. I think the best possible and most satisfactory investigation would be by a special committee.

STATEMENT OF HON. WILLIAM S. GREENE, A MEMBER OF CONGRESS FROM MASSACHUSETTS.

Mr. GREENE. Mr. Chairman, I have been interested in this matter and all the testimony that has been given before this committee, and I certainly believe that there should be some investigation of the subjects that have been brought before you. As to the method of investigation, of course, that rests with your committee to decide. I do not think it would legitimately come under the Committee on Merchant Marine and Fisheries. I am a member of that committee and have been for the last 14 years, and I think this would be entirely outside of the range of the investigation that we are now authorized to make.

The CHAIRMAN. Do you think there are questions involved in this matter here to-day that do not come under the scope of the special resolution?

Mr. GREENE. I do.

The CHAIRMAN. I understand you have a lot of facts here in this matter that we know nothing about, but according to your judgment probably they could not be reached under the other resolution?

Mr. GREENE. I think not, probably.

Mr. HARDWICK. Some of them could.

Mr. GREENE. Some of them could undoubtedly. But I think it is essential that there should be some method of investigation, whether by a special committee or by a subcommittee of the Interstate and Foreign Commerce Committee, I am not prepared to say. I leave that entirely to you.

STATEMENT OF HON. ERNEST W. ROBERTS, A MEMBER OF CONGRESS FROM MASSACHUSETTS.

Mr. ROBERTS. Mr. Chairman, I appear at the request of the president of the Board of Trade of Everett, Mass., who sent me a communication under date of December 7, 1912, to the effect that there would be a hearing on the proposed investigation, as they understood, of the merger between the New York, New Haven & Hartford and the Boston road. He winds up his statement by saying:

The Everett Board of Trade is especially anxious that this matter should be investigated and if possible have these two roads separated so that we may again have competition, as we used to have before this merger was effected.

I assume from a casual reading of the resolution presented by Mr. O'Shaughnessy that it is of sufficient scope to include in it the investigation of the facts connected with the so-called merger of the two roads. I gather from this hearing that the chief complaint of the people of Rhode Island grows out of another proposition, another action of the New Haven road, but that the investigation would cover not only that but the merger and all other acts of the New Haven road which might be said to be in restraint of trade or prevention of competition.

I want to say in conclusion that a great many business men in my district, which adjoins the city of Boston, are very much dissatisfied with the transportation facilities they now receive, and they feel and believe that they are not having the competition and not having the favorable terms they received before the so-called merger, and they have always been dissatisfied with that merger and they would like to see the two roads separated if there is any process of legislation that can bring that about.

I will leave this letter with the chairman.

The letter introduced by Mr. Roberts is as follows:

EXECUTIVE OFFICES, EVERETT BOARD OF TRADE,
Everett, Mass., December 7, 1912.

Congressman ERNEST W. ROBERTS,
Washington, D. C.

DEAR SIR: I understand that there is to be a hearing in the House of Representatives, relative to having an investigation of the merger between the Boston & Maine Railroad and the New York, New Haven & Hartford Railroad, on Tuesday, December 10, 1912.

If this is correct will you kindly appear and use your influence to have such investigation made?

The Everett Board of Trade is especially anxious that this matter should be investigated and if possible have these two roads separated, so that we may again have competition as we used to have before this merger was effected.

Yours, very truly,

E. I. BLOUNT, *President.*

**STATEMENT OF HON. JAMES M. CURLEY, A MEMBER OF
CONGRESS FROM MASSACHUSETTS.**

Mr. CURLEY. Mr. Chairman and gentlemen, I can only reiterate what has been said by the previous speakers. The people of New England for a number of years have been looking and hoping for a direct connection between New England and Canada in the nature of a competing railroad. Boston is within 12 hours of Montreal, and the people of New England feel that reciprocity, recently defeated, is by no means dead, and the prospects are excellent that it will be revived at some time in the immediate future. There is no section of the country that would benefit more through reciprocity between the United States and Canada than the New England section, and if a special investigating committee can by any means clear the atmosphere and make possible for New England that connection with Canada which it so much desires and which is so necessary to its future development, then no more useful purpose can ever have been served by any committee of this House.

**STATEMENT OF HON. C. B. WILSON, MAYOR OF BRIDGEPORT,
CONN.**

Mayor WILSON. Mr. Chairman, I want to say that I represent Bridgeport, which is a very large industrial city, the second city of Connecticut. At the present time there is no competition whatsoever; the New York, New Haven & Hartford owns the railroad, the steamship lines, the trolley lines, and all lines of travel to and from the city. The competition that we ought to have and which was stopped by the so-called merger would very materially help Bridgeport. We feel also that the road ought to show more consideration, give us better facilities, and eliminate the causes of wrecks that we have had, and do other things which will materially work to the advantage of Bridgeport and the shipping industries.

**STATEMENT OF STATE REPRESENTATIVE LYNN W. WILSON,
OF CONNECTICUT.**

Mr. WILSON. Mr. Chairman, I understand that your committee has authorized the filing of written statements. May I ask how much time will be allowed for doing that?

The CHAIRMAN. We will give you five days if you desire.

Mr. WILSON. In that case I shall not take more than five minutes of the committee's time. I want to say first that I am not a representative but a representative elect to the General Assembly for the State of Connecticut.

Now, you have heard the State of Connecticut referred to here in this testimony again and again as the State which has authorized this New Haven monopoly to go out and prey upon interstate commerce and upon the intrastate commerce of the other States of this Union. I am going to speak to but one point. It seems to me that if you gentlemen will scrutinize the charter which has been granted to the New Haven road by the State of Connecticut you will see the essential power from which it gets its authority to make these great consolidations consists in the fact that it may issue stock and bonds

without any limit at its own will and discretion as long as it chooses to print them and as long as it can get a market for them. Now, then, if that power is suspended and that power to issue stock and bonds without security should be lodged, by an act of legislation not now existing but which the Federal Congress has power to pass, in the Interstate Commerce Commission, I think that so far as the extension of that monopoly is concerned you will have attained immediate results. If you authorize the Interstate Commerce Commission to look at every issue of stock and bonds proposed by that railroad, with authority to interested parties to appear when a proposition comes along to buy a Connecticut trolley monopoly at three or or five four times its value, that authority will not be issued and you will get right at the heart of the thing. That is merely by way of suggesting necessary legislation. This New Haven road has been chartered by the State of Connecticut as a commercial pirate——

Mr. HARDWICK. Does not your State railroad commission have that power in your State?

Mr. WILSON. No, sir.

Mr. HARDWICK. Under the laws of Connecticut?

Mr. WILSON. In the last General Assembly we tried to put into the public-utilities bill which we passed in that year after a bitter contest a provision that they should have authority to scrutinize the issuance of stock and bonds. Under our system there our Government is largely officered by gentlemen who are very close to this road—but that is a changing situation—and instead of that modern and useful legislation we got a bill saying that if Mr. Mellen should take anything for nothing we could send him to jail, which is exactly no power at all. In the coming session of the assembly of the State of Connecticut there will be legislation endeavoring to establish that very power in our public utilities commission. But suppose you do that; they will go right out into South Dakota or some other State, and the State of Connecticut can not protect Connecticut, the State of Connecticut can not protect Rhode Island, or any other Commonwealth.

If you will scrutinize the official report of this monopoly to the railroad commission, I believe that as business men you will decide that upon the face of that report there ought to be some scrutiny of the affairs of this organization. You will find a great railroad property with enormous income, and you will find other properties, and you will find that they say they do not know how much of those millions of scrip has been issued for some roads and how much for other roads. You will find that the wealth of that great New England steam railroad system, one of the most conservative that ever did business in this country, is being slowly extracted from it by legislative process. And I think you will find in the last analysis that the value so extracted has been distributed into the pockets of owners of trolley roads and steamboat companies. To my mind—but I will be willing to leave it to the judgment of any committee that may be created—the thing that has been sought to be attained is not primarily a monopoly but primarily the transfer of one property in the possession of one group of citizens by processes of law into the pockets of other groups of citizens. My friends, Connecticut and New England are full of people who bought New Haven stock at 275 and 280. They thought it was a solid corporation. If they wanted to sell that stock now—and the road is making more money than it

ever made before—they have to take to-day 134. I think it is a question if the Congress can afford to let the income of a great corporation engaged in interstate commerce be diverted to run trolley roads and steamboats engaged in interstate commerce, when it appears that there is a condition where the very safety of the lives of people of the United States is imperiled thereby. The whole question here is whether you want to take money from passengers and freight in passage through the United States in order to support securities entirely within the State of Connecticut and entirely within the States of Massachusetts and Rhode Island.

There is a passage here about rights. In 1911—I have forgotten the date—I went out in Bridgeport to a crossing there that goes through our city, and I saw the Federal Express in the ditch. That is a train plying between Bridgeport and Washington. There were some 10 or 12 or 14 people dead there. I think there were no Members of Congress, but some may be at some future time, and then I am sure that that question will interest Congress. The other day I went over to Westport, and there was another wreck, and a great many people killed. Four days later down at New Milford there was another wreck; the Portland Express left the tracks. Trains do leave the tracks, trains are wrecked, the best railroads may have hard luck; but in the case of the Federal wreck we found that the road was in bad condition. In the Westport wreck we found that the road was in bad condition. It is of record in the testimony before the investigating committee of the State of Connecticut that men pulled spikes in that road with their naked fingers, and that the ties were rotten. My friends, I myself went down to the wreck of the Portland Express between New Haven and New Milford, and I myself saw the same condition of roadbed. And the mayor of Mount Vernon the other day went out and pulled spikes with his fingers and found the condition of the roadbed to be terrible.

The CHAIRMAN. Have the conditions up there suggested to any of the citizens of New England the possibility of Government ownership of railroads?

Mr. WILSON. I understand, sir, that in Massachusetts there is a serious discussion of the taking over of the lines within that State. In Connecticut there is some thought along that line—not yet, I think, the dominant body of thought—in favor of national ownership of railroads; but unquestionably, sir, these conditions are producing in New England a very large but not yet dominant sentiment of the nationalization of the steam roads.

The CHAIRMAN. What do you mean by that national ownership?

Mr. WILSON. National ownership.

Mr. MURRAY. May I file in this place in the committee's report an extract from the Boston Daily Globe of yesterday with regard to the speeches delivered at a dinner of the New England Association of Purchasing Agents at the Exchange Club in Boston, the names of the speakers being Edgar J. Rich, general solicitor of the Boston & Maine Railroad, and Henry J. Horn, vice president of the New York, New Haven & Hartford. They discussed the proposed legislation in Massachusetts for the taking over by the Commonwealth of Massachusetts of the Boston & Maine Railroad to be owned and operated as a State enterprise. The heading is: "Says politicians would run road." They deprecate the agitation for State ownership of the Boston & Maine.

The CHAIRMAN. I am surprised to find that there would be any sentiment of that kind in New England.

Mr. MURRAY. The retiring president of the Boston Chamber of Commerce, Mr. Joseph B. Russell, who has been a conservative of conservatives, a man who is no radical, a man who has the confidence of the community and of the business men of the community, has publicly advocated the State ownership of the Boston & Maine Railroad as the only possible means of relief we have from the transportation monopoly that has control of all kinds of transportation lines. And I want to say, Mr. Chairman, that unless we do get some relief here we are going to get Government ownership.

I have previously spoken in behalf of the pending legislation, and I believe that Government ownership is the only possible solution of the problem we have. I just want to incorporate in the record the suggestion that you and I, as Members of Congress, are members of a great business enterprise which is probably the greatest business enterprise in the world—the Post Office Department of the United States, with its annual receipts of \$250,000,000. The Congress of the United States, acting as the board of directors of that great single business enterprise, has conducted it in a way that has been entirely satisfactory to the stockholders of that enterprise, the people of this country. We put through in this Congress the parcels-post legislation; we seriously considered putting through the Government ownership of express companies, as suggested by Mr. Lewis of Maryland, and unless we can get relief from the kind of thing that has been caused in Massachusetts by these captains of finance I say the day is not far distant when there will be serious agitation for Government ownership of these railroad enterprises, and that the Congress of the United States will commit this Nation to it.

I ask to have that article incorporated in the record.

The CHAIRMAN. It will be so ordered.

The article referred to by Mr. Murray is as follows:

[The Boston Globe.]

SAYS POLITICIANS WOULD RUN ROAD—RICH DEPRECATES AGITATION FOR B. & M. STATE OWNERSHIP—HORN TELLS NEED OF DEVELOPING LINES—MELLEN'S COURSE DEFENDED.

Black was the picture of the fate of the Boston & Maine Railroad should the Commonwealth of Massachusetts take it over, as painted by Edgar J. Rich, general solicitor for that road, in an address last evening at the dinner of the New England Association of Purchasing Agents at the Exchange Club.

Henry J. Horn, vice president of the New York, New Haven & Hartford Railroad, was the other speaker introduced by President H. L. Ogden, but Mr. Horn confined himself to telling of the "stone wall" which the railroads were up against by reason of their need to develop their systems and their extreme difficulty in getting the money to do it.

Mr. Rich spoke of the responsibilities and obligations of public-service corporations in the matter of regulation and investigation and preferred a more specific complaint against the indiscriminate investigating of railroads for reasons of personal spite or with a view to making political capital. Turning to the prospect of Government ownership he said:

"There is to-day a serious situation in New England. There is more than a chance that Massachusetts will take over the Boston & Maine Railroad. For it is not just Louis D. Brandeis and David O. Ives who advocate it now, but the retiring president of the Boston Chamber of Commerce, and that is a very different story.

"At best, though, it is a selfish, dog-in-the-manger policy, which ignores the rights of sister States through which the system passes. And what if it means not State ownership, but turning the road over to private capital? Will it be Massachusetts capital? The Massachusetts capitalists have not the courage to invest in New England railroads.

"MELLEN AND STATE STREET CAPITALISTS.

"What has caused the recent wave of criticism directed against President Charles S. Mellen? Mr. Mellen himself gave the answer when he said his troubles were due to the desire of the State Street capitalists to get a rake-off—to provide him at $4\frac{1}{2}$ per cent with money he needed, money not their own, but secured by them in New York at 4 per cent. It was the commission they wanted, and their interests were purely selfish.

"Mr. Mellen, however, stands for honesty and efficiency. Therefore he would not accept their offer, but went himself to New York and got the money at 4 per cent, thus serving the interests of all New England instead of this group, but getting the enmity of that group.

"Do you want the road controlled, as it would be, by politicians at city hall or the statehouse? For the private capitalists would be controlled by these politicians, and they would have to be amenable to demands for jobs for the politicians and their friends.

"We have had only one experiment with State ownership of railroads in Massachusetts, when the State built the Hoosac Tunnel and the Hoosac Tunnel Railroad, paying \$20,000,000 for it and later disposing of it for \$10,000,000 in 3 per cent bonds. Do you like the sample?

"In the close investigation of the Boston & Maine Railroad by the New Hampshire Legislature the investigators, hostile as they were to the road, could find only one contract to criticise, and that of long standing. What do you think would be the results of an investigation of contracts after they had been made for five years in City Hall or on Capitol Hill?

"Public ownership of railroads may be practicable when our civil service is reformed and purified, when our politics are reformed, when the right type of man seeks public office, and when that public office is sought because it is a public office and not a private job. Even now the Government may perhaps properly take over some added functions of public service, but it will be a long time before the people of the United States should turn over to the politicians a business employing a million and three-quarters men—enough to keep any party in power forever."

BLAMES INTERSTATE BOARD.

Referring to the admitted lack of facilities for railroads, Mr. Rich held that it resulted from the refusal of the Interstate Commerce Commission to let the railroads advance their rates enough to make the needed improvements. This, he said, disheartened the railroad men and frightened away the investing public.

The courts, he added, have held that the railroads are entitled to a 7 per cent return on the value of their property; yet the New Haven, though paying an 8 per cent dividend, is getting but 6 per cent return on the value of its property, and the Boston & Maine, paying 4 per cent, is getting but 3.

Mr. Horn enlarged on this same theme of the need of railroad development and the virtual impossibility of its accomplishment, and as evidence cited the freight congestion of last winter, caused by January's low temperature.

The drop of temperature, he said, was but 10° , but it was enough to reduce the capacity of the locomotives by 25 to 30 per cent. This, in turn, produced congestion in nearly every road east of the Mississippi, so that the New Haven, which is a freight-receiving and not a freight-originating road, was looking for business through January and until the middle of February.

Then when the cold relaxed the freight was dumped in so fast that the road was overwhelmed until in early April the coal strike gave it a chance to catch up. This, he thought, showed how close to the limit the railroads of the country are operated, and he noted that the abused Boston & Maine was the only connecting road which gave the New Haven more freight in January, 1912, than in January, 1911.

"Six years ago," he said, "when Hill said that the railroads were 'up against a stone wall,' we were experiencing a boom. To-day there is another boom, but to-day men could not sell railway stocks for anything from 80 to 200 points of what they paid for them in 1906. One may respectfully wonder, then, what the next boom will do to the railroads."

Mr. O'SHAUGNESSY. I wish to introduce Mr. Frank E. Fitzsimmons, of Rhode Island.

Mr. FITZSIMMONS. I desire to ask your permission to file my observations in type.

The CHAIRMAN. The committee will be glad to have you do so.

Mr. O'SHAUGNESSY. The same privilege is asked by Mr. Alexis H. Boyer and Mr. Charles Broulx, selectmen, of Southbridge, Mass., who are in favor of the resolution. I also wish to note the appearance of Mr. Charles Haggerty, representing the town of Webster, Mass., in favor of the resolution.

Mr. WALKER. Mr. Chairman, we are prepared to explain the points about which you asked.

The CHAIRMAN. We shall be glad to hear you this afternoon.

STATEMENT OF MR. NATHAN A. BRIGGS, TREASURER, RHODE ISLAND BUSINESS MEN'S ASSOCIATION.

Mr. Briggs filed the following statement:

Mr. CHAIRMAN AND GENTLEMEN: I am here to represent the Rhode Island Business Men's Association, which consists of 400 corporations and companies from all parts of the State and all kinds of industry, except producing the raw material. We ship in the raw material and ship out the manufactured goods, so that transportation is a factor with us, not that we want opposition, but competition, and when the Grand Trunk applied for a charter for the Southern New England we lent them all the aid at our command, not doubting their ability and good faith that they would perform what they agreed to do. A great many have looked forward to just this opportunity, an outlet that would give us a choice of railroads, and placed Providence on the railroad map, not that the freights would be less, but that there would be built up some foreign trade. We can not see why it would be a competitor with any other railroad, but be a benefit to other traffic associations. We looked forward for great possibilities.

But gentlemen, we had a shock such as no other community ever had when the order came to abandon work on the Southern New England. It was worse than an earthquake. The trust had been broken, and to-day indignation stalks through the community. Indignation does not convey the feelings that exist. The most dastardly act that was ever perpetrated or was about to be on a community is the abandonment of the Southern New England road by some power that wished to strangle competition in trade and traffic. Whether that power can be brought into the lime light of public opinion is questioned. To follow the right of way from Palmer to tidewater it is simply chaos, the way it is left. It has cost millions and will cost millions more to put it in a safe condition. The State has made great plans for the terminals by giving up rights that some thought we ought not to, but not as much as we did for the New Haven & Hartford Railroad. We gave them all they asked for and now they are getting the contents of our pocketbook.

Gentlemen, we have the finest bay in the world and the best entrance, extending 35 miles inland. We have six lines of steamships, four controlled by the New York, New Haven & Hartford Railroad, one, the Colonial, starts in New York and ends in Providence, the Farbar Line makes Providence a call port. We have five steam railroads all controlled by the New York, New Haven & Hartford Railroad. We have some fine trolley roads, all controlled by the New York, New Haven & Hartford Railroad, so you see they have us bottled up. We did expect another railroad, but it has been strangled, by whom? The New York, New Haven & Hartford Railroad have had a hand in it from the first. They tried to prevent us from giving them a charter, then they tried to block them in Massachusetts and New Hampshire, and trying to block the right of way by building sheds at Woonsocket, R. I., but failed. Have they accomplished it now? If not, can it be prevented? We ask the question of public opinion and it is doubted; we asked the question of the public utilities, of the Interstate Commission, of the Judicial and there is still doubt and still we wonder at crime. Gentlemen, it is Rhode Island that is pinched to-day, but it may be Texas or some other State to-morrow unless we can find the remedy. The railroad kings and financiers are too smart for the every day merchant, and when you may not be able to lift Rhode Island out of the mire, you can prevent it happening to some other State. If a committee will investigate, they may be able to report satisfactorily so that the Sherman law or other law may be made to reach the octopus that has reached out and strangled all competition.

NATHAN A. BRIGG, *Treasurer.*

The committee thereupon took a recess until 2.30 o'clock p. m.

AFTER RECESS.

The committee reconvened at 3 p. m.

The CHAIRMAN. The committee will come to order. Mr. Buckland, the committee will hear from you now.

STATEMENT OF MR. E. G. BUCKLAND, VICE PRESIDENT OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD.

Mr. BUCKLAND. Mr. Chairman and gentlemen, I hold in my hand a copy of the Grand Trunk agreement, so called; in other words, the document showing the relations between the New York, New Haven & Hartford Railroad and the Grand Trunk Railway Co. of Canada, which copy has been received by my associate in the Attorney General's office this morning and was made, as I understand, from one of the original documents signed by Mr. Mellen, the president of the New York, New Haven & Hartford Railroad. I think it might not be out of place to read the agreement in order that the committee might be entirely apprised of its contents.

The said agreement follows:

Memorandum of agreement made this —— day of ——, A. D. 1912, by and between the Grand Trunk Railway Co. of Canada, representing lines operated and controlled by it (hereinafter referred to as the "Grand Trunk"), and the New York, New Haven & Hartford Railroad Co., representing lines operated and controlled by it (hereinafter referred to as the "New Haven").

(The lines above referred to as controlled by the Grand Trunk are the Central Vermont Railroad and its subsidiaries, and the lines controlled by the New Haven are the Boston & Maine Railroad, the Maine Central Railroad, and their subsidiaries.)

Whereas the parties hereto own, operate, and control connecting systems of transportation, which are in general supplementary and complementary each to the other, and form, together, through routes for traffic; and

Whereas there are certain relatively short lines of track belonging to each system which lie between lines of track of the other system, so that such other system by enjoying an equal use thereof can operate a continuous line of railroad without any detriment to the other of such intervening lines, and to their mutual advantage as well as to the advantage of the public they serve:

Now, therefore, the Grand Trunk and the New Haven hereby mutually agree, for the benefit of themselves and the lines represented by them, as follows:

The New Haven agrees to open joint rates and through billing in connection with The Grand Trunk lines, all its stations—the division of such joint rates to be committed to Mr. B. Campbell, representing the New Haven, and Mr. J. E. Dalrymple, representing the Grand Trunk, and if they shall fail to agree a third person shall be selected by the chairman of the Interstate Commerce Commission of the United States, to act with them, and the decision of the majority of the three, upon any detail of such division, shall be binding and effective upon both parties.

These divisions shall be attached to and are made a part of this agreement.

The point of interchange for the joint business contemplated by the parties hereto is designated to be White River Junction, Vt.

This agreement contemplates the running of through trains, through cars, the selling of through tickets, the checking of through baggage, the through billing of freight, and in all respects the use of the lines of roads of the parties hereto, so far as the public is concerned, as if they were in reality one road; also

The meeting of competitive conditions arising from time to time in rates and service, and the maintenance, so long as legally may be, of the present differential basis of rates now accorded to the Grand Trunk, except that nothing shall be construed to prevent such modification of said differential rates as may from time to time be agreed to by the Grand Trunk.

The Grand Trunk shall cause to be granted to the New Haven lines the joint and equal use of the following lines of road:

1. The joint and equal use of the line of road between White River Junction and Windsor, Vt., in connection with its lines north and south thereof, so that the Boston & Maine Railroad may have, use, and enjoy an unbroken line of railroad.

2. The joint and equal use of the line between Swanton and Alburgh, Vt., so that the Saint Johnsbury & Lake Champlain Railroad Co. may have, use, and enjoy, an unbroken line in connection with the Rutland Railroad.

3. The joint and equal use of the line between Rouses Point, N. Y., and Montreal, Quebec, so the Rutland Railroad may have, use, and enjoy an unbroken line to Montreal.

(This last to be effective only when the second party secures control of the Rutland Railroad and the Rutland Railroad's present arrangement for reaching Montreal terminates.)

The New Haven shall cause to be granted to the Grand Trunk lines the joint and equal use of the line between Windsor, Vt., and Brattleboro, Vt., in connection with its lines north and south thereof, so that the Central Vermont Railroad Co. may have, use, and enjoy, an unbroken line of railroad.

The making of the detailed agreements, covering the joint and equal use of each other's lines, above contemplated, shall be committed to Mr. E. J. Chamberlin, representing the Grand Trunk, and Mr. C. S. Mellen, representing the New Haven, and if they shall fail to agree a third person shall be selected by the Governor General of the Dominion of Canada, to act with them, and the decision of a majority of the three, upon any question relating to the details of such agreement, shall be binding and effective upon both parties.

These agreements shall be attached to and are hereby made a part of this agreement.

This agreement shall take effect upon January 1, 1913, and continue in force and effect for 25 years thereafter, unless modified or sooner terminated by mutual consent.

In witness whereof the parties hereto have caused this agreement to be signed by their presidents, and have caused their corporate seals, duly attested by their respective secretaries, to be hereto affixed on the day and year first hereinabove written.

[SEAL] THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.,
By C. S. MELLEN, *President*.

Attest:

A. E. CLARK, *Secretary*.

GRAND TRUNK RAILWAY CO.,
By ———, *President*.

Attest:

———, *Secretary*.

That indicates that this has been signed and sealed by the New York, New Haven & Hartford, but has not been either signed or sealed by the Grand Trunk Railway of Canada. I will file that with the committee.

Before the opening of the hearings yesterday morning I made up a statement indicating the position of the New York, New Haven & Hartford Railroad in regard to this proposed investigation. I understand that the Committee on Rules is the committee to which has been committed the resolution introduced by Representative O'Shaunessy in regard to investigating the relations between the Grand Trunk Railway, the Southern New England Railway, and the New York, New Haven & Hartford Railroad, and also in regard to certain other investigations in reference to the affairs of the New York, New Haven & Hartford Railroad. I understand that it is the scope of this committee to report back that resolution with such amendments as they may see fit to put into it, and to determine what shall be the scope of a final resolution to be passed by the House in regard to an investigation of this kind. Therefore, in the statement which I had prepared I endeavored to confine myself as much as possible to that particular issue, and not go into the merits of any investigation which might be conducted. The statement which I prepared and which probably some of you gentlemen have seen in the press, is as follows:

So far as our company is concerned, we are entirely willing that Congress and the public should know all the facts regarding our relations with the Grand Trunk Railway Co. and the Southern New England Railway Co., its Rhode Island subsidiary. Any

investigation to that end ordered by Congress will receive all the help that lies in our power.

The relations between the New York, New Haven & Hartford Railroad Co. and New England steamship lines are now the subject of a special inquiry by the Committee on Merchant Marine and Fisheries under a resolution of the House of Representatives passed at its last session. The New York, New Haven & Hartford Railroad Co. and all of the steamship lines owned, operated, or controlled by it have made full returns as required by this committee, besides which we expect to make a further statement to the committee when the committee is ready to hear us.

The financial condition of the New York, New Haven & Hartford Railroad Co. is now under investigation by the Interstate Commerce Commission. For nearly two months a corps of examiners has been in New Haven at our general offices examining our books and records, acting under the orders of the commission, with a view to determining everything pertaining to the investments of our company in the stocks and securities of other companies. Moreover, a similar investigation was undertaken at great length about two years ago by the Commonwealth of Massachusetts, through a special board appointed by the legislature. This commission, after six months work, with a large force of trained men and at an expense involving approximately \$100,000 filed its report on February 15, 1911. It made a most searching investigation of all of the securities and other property of the company and made a report indicating a value of assets aggregating \$495,759,638.01, as against aggregate liabilities of \$394,147,563.63, showing an excess of assets over liabilities of \$101,612,074.38.

The affairs of the Boston & Maine Railroad have been under investigation for more than a year by the public service commission of New Hampshire, and a report favorable in most respects to that company and to its present administration was made public the first of this month.

The passenger and freight service and rates applying to the same are now the subject of an investigation by the Interstate Commerce Commission, which investigation was started the 1st of last July. Four hearings have already been held and another is appointed for the latter part of this month. The scope of this investigation has also included the character of the New Haven's and Boston & Maine's equipment, yards, terminals, track; in fact everything having to do with the service rendered by these companies.

The Interstate Commerce Commission and the public utilities commission of Connecticut have also made an exhaustive investigation of the company's track and roadbed and each commission has made its report thereon.

In view of these investigations to which the company has been and is being subjected, it would seem unnecessary to duplicate the work and again require testimony to be produced which is now on record and open to the examination of any who care to make inquiry. It would, therefore, seem that the time of the committee could be saved if the scope of the investigation were limited to the relations of the New York, New Haven & Hartford Railroad Co. to the Grand Trunk. In this, as I have said, the committee will have all of the help which we can give it.

WASHINGTON, D. C., *December 9, 1912.*

Now, in regard to the scope of the resolution, I call the committee's attention to this wording—this is House resolution 587, passed at the Sixty-second Congress, second session:

Resolved, That the Committee on the Merchant Marine and Fisheries be, and is hereby, empowered and directed to make a complete and thorough investigation of the methods and practices of the various ship lines, both domestic and foreign, engaged in carrying our over-sea or foreign commerce and in the coastwise and inland commerce, and the connection between such ship lines and railroads and other common carriers, and between such lines and forwarding, ferry, towing, dock, warehouse, lighterage, or other terminal companies or firms or transportation agencies, and to investigate whether any such ship lines have formed any agreements, understandings, working arrangements, conferences, pools, or other combinations among one another, or with railroads or other common carriers, or with any of the companies, firms, or transportation agencies referred to in this section, for the purpose of fixing rates and tariffs, or of giving and receiving rebates, special rates, or other special privileges or advantages, or for the purpose of pooling or dividing their earnings, losses, or traffic, or for the purpose of preventing or destroying competition; also to investigate as to what methods, if any, are used by such ship lines, foreign or domestic, and railroads and other common carriers, or of any of the companies, firms, or other transportation agencies referred to in this section, to prevent the publication of their methods, rates, and practices in the United States; also to investigate and report to what extent and in what manner

any foreign nation has subsidized or may own any vessels engaged in our foreign commerce; also to investigate and report to what extent any vessel lines and companies, or any of the companies, firms, or transportation agencies referred to in this section, engaged in our foreign or coastwise or inland commerce, are owned or controlled by railway companies, by other ship lines or companies, or by any of the companies, firms, or transportation agencies referred to in this section, or by the same interests and persons owning or controlling railroad companies, ship lines, or other common carriers, or any of the companies, firms, or transportation agencies referred to in this section; and said committee shall further investigate whether the conduct or methods or practices of said foreign steamship lines are in contravention of our commercial treaties, or in violation of our laws, and what effect said methods and practices have on the commerce and freight rates of the United States; and shall further investigate what effect such combinations, agreements, understandings, working arrangements, and practices of railroads and our coastwise and inland shipping lines, or of railroads and such shipping lines and any of the companies, firms, or transportation agencies referred to in this section, or of railroad and over-sea shipping lines, whether domestic or foreign, if any are found to exist, have on the commerce and freight rates of the United States, and whether the same are in violation of the laws of the United States.

SEC. 2. That said committee shall report to the House all the facts disclosed by said investigation and what legislation, if any, it deems advisable in relation thereto.

SEC. 3. That said committee, or any subcommittee thereof, is hereby empowered to sit and act during the sessions or recess of Congress at such place or places as may be found necessary and to require the attendance of witnesses, the production of books, papers, rates, tariffs, and other documents, by subpoena or otherwise, to swear such witnesses and take their testimony orally or in writing.

SEC. 4. That said committee is hereby authorized to employ such counsel and experts and clerical and other assistance as shall be necessary to perform its duties hereunder.

SEC. 5. That the Speaker shall have authority to issue subpoenas for witnesses, upon the request of the committee, during the recess of Congress in the same manner as during the sessions of Congress.

Mr. HARDWICK. Now, that would dispose of only one thing in the O'Shaunessy resolution, to wit, that part of the O'Shaunessy resolution which undertakes to investigate your connection with steamship transportation?

Mr. BUCKLAND. And it was to that I was addressing my remarks.

Mr. HARDWICK. Of course, that would seem to cover that line thoroughly—the resolution now passed?

Mr. BUCKLAND. Yes, sir. Therefore it seems to me that that part of the O'Shaunessy resolution has now been referred to a committee and that committee has full jurisdiction over our relations with steamship lines.

I refer for these figures to the report of the joint commission on the New York, New Haven & Hartford Railroad, 1911, by Mr. MacLeod, chairman of the Massachusetts railway commission, pages 136 and 137. A copy of that report will be filed. In the determination of the valuation I quote from the report of this commission, which, as Mr. MacLeod said, was composed of the board of railroad commissioners, three in number, the tax commissioner, and the bank commissioner, appointed for the purpose of determining whether the securities of the New York, New Haven & Hartford Railroad were proper savings-bank investments. It may not be improper to say that something more than a year prior to the initiation of this investigation by the State of Massachusetts, Mr. John F. Stephens, at one time the engineer on the Panama Canal, was employed by the New York, New Haven & Hartford Railroad to make an appraisalment of its property, and the report which he made indicated a valuation of our property at about \$25,000,000 less than the valuation which was arrived at by the Massachusetts commission. In other words, the Massachusetts commission, without going over Mr. Stephens's

appraisement, raised his valuation \$25,000 000, although in that valuation they depreciated the present value of the property—the present replacement value of the property—by charging for depreciation for obsolescence, or age, or other things which wear and tear indicate upon a going property.

Mr. MACLEOD. Mr. Chairman, I would like to correct a statement that was made. The valuation commission did not sanction any special valuation of the New York, New Haven & Hartford assets. There were certain reports made by experts employed by that board which indicated a certain value, but the commission itself was careful not to pass upon the definite matter of values, but ruled that on general matters the assets of the company were in excess of its liabilities. That was all that was included by the scope of its inquiry.

Mr. BUCKLAND. I did not mean to say that the Massachusetts commission adopted or did not adopt Mr. Stephens's valuation. I did mean to say that as a result of their own valuation they arrived at a report which indicated an excess of \$25,000,000 more than that reached by Mr. Stephens, as a mathematical proposition.

Mr. MACLEOD. Well, assuming that the board accepted responsibility for the report made to the board by certain experts employed by it, that might follow; but while I was not a member of that commission at that time, I am very well acquainted with what was done from conferences held with the other members of the commission who were on that board. They stated that they advisedly declined to sanction—to give their official sanction to the reports that were made to them by the experts which they employed further than to express themselves as being satisfied that the assets as a whole were in excess of the liabilities; that it was not the intent of that commission to lay down any express figure as representing the valuation of the assets of the New York, New Haven & Hartford Railroad Co. Various demands were made to have that done, but the commission declined to do so.

Mr. BUCKLAND. Perhaps it would be just as well, then, as long as there is a little issue between us, to read this from page 23, and also at page 24:

The accompanying reports indicate a value of assets very largely in excess of capital stock and indebtedness, and in connection with the report of its doings under the act the commission has deemed it proper to submit these reports in full. While of necessity questions of value are to a considerable degree matters of judgment, the commission is content with a declaration that while its judgment is not necessarily in accord with that of experts, the excess of assets over all liabilities is sufficiently ample to warrant the finding made in the certificate under the terms of the act.

It is to be further observed that under the terms of the act the rule established by the general court for the proceedings by the commission was the ascertainment of the aggregate corporate assets for the sole purpose of determining whether the same are sufficient to secure the outstanding capital stock and indebtedness of the company. The word "assets" is of sufficiently broad definition to include the entire property of all sorts belonging to a corporation; and would permit the commission to appraise the value of intangible assets, so called, including all the franchises of the corporation, together with its value as a going concern. A discussion of this aspect of the valuation will be found in Prof. Swain's report.

Without undertaking to place a value for any purpose upon such intangible assets, it is enough to say that taken together their value would be very large. The monopolistic character of the New York, New Haven & Hartford Railroad Co.'s system, the densely populated districts which it serves, the very large number of industrial and commercial enterprises along its lines and in the vicinity, and the efficiency of the management of the company are factors, although not exclusive ones, that, it will be readily conceded, make for values of an intangible character.

Now, while what Mr. MacLeod says is strictly true in regard to the commission arriving at any specific figure and indorsing any specific figure, nevertheless, on page 136, from which I read the figures, is contained the report of Prof. George W. Swayne, of the Massachusetts Institute of Technology, to whom was committed by this commission the task of making the appraisement, and I have reason to assume that if they had not agreed with him they would have criticized his report.

The CHAIRMAN. Is there anything in that report controverting the estimate made by Mr. Stevens?

Mr. BUCKLAND. No, sir, there is nothing. On the contrary, in order to save your time I did not read the——

The CHAIRMAN (interposing). I was just putting it in a negative way to determine whether they took any issue with Mr. Stevens.

Mr. BUCKLAND. On pages 24 and 25 I read:

In closing this branch or division of the report the commission desires to make its acknowledgments to all the gentlemen who have been associated with it in its investigation, and also to the management of the New York, New Haven & Hartford Railroad Co. for its cooperation; and to recognize the value of the appraisals of John E. Stevens, operating vice president of the company, and the reports of Price, Waterhouse & Co., chartered accountants, of New York.

Mr. LENROOT. This was the commercial value?

Mr. BUCKLAND. Yes, sir; this was the commercial value.

Mr. LENROOT. Was Mr. Stevens's valuation commercial value?

Mr. BUCKLAND. Yes, sir.

Mr. LENROOT. Was there a difference—a wide difference—between the replacement value and the commercial value?

Mr. BUCKLAND. Perhaps I misunderstand what you mean by commercial value. As nearly as I can explain it, it was a replacement value, less depreciation due to obsolescence.

Mr. LENROOT. That is right; that was my question.

Mr. BUCKLAND. Yes. That is what I referred to in that part of my statement which I last read. I have here and would like to file the report of the New Hampshire public service commission on the affairs of the Boston & Maine Railroad.

I read from Volume I of the testimony offered before Chairman Charles A. Prouty, of the Interstate Commerce Commission, at the hearing held in Boston July 1 and 3, 1912. I read from Mr. Prouty's statement:

Chairman PROUTY. The docket number of the case that has been assigned for investigation this morning is 4845, in the matter of rates, classifications, regulations, and practices of certain carriers.

This proceeding is really an investigation into general railroad conditions in New England.

Since the taking over of the Boston & Maine Railroad by the New York, New Haven & Hartford Railroad, especially since the New Haven road came into the virtual management of the Boston & Maine road, the commission has received a great many complaints, usually as to the service, and the allegation has been that this was due in some way to the merger.

In consequence of these complaints, some six months ago we sent an agent into New England with instructions to investigate the situation and report. His report revealed a condition of things which led us to believe that an investigation ought to be made.

The railroad transportation of New England has come to be almost a complete monopoly. There is no other part of this country, where the same territorial extent and the same commercial interests are involved, in which the same condition of monopoly exists.

It is a grave question as to whether conditions under that state of monopoly will be or can be as favorable as where competition exists.

The investigation which the commission proposes to undertake will finally divide into three general heads. There will be:

First, the financial aspects of the subject.

We propose to trace the history of the various combinations, absorptions, and leases by which this monopolistic condition has been brought about. That information we can obtain largely from the reports to the commission, from financial publications, and, to some extent, perhaps from oral testimony.

There is, second, what may be termed the traffic aspect of the question: The inquiry how the rates, practices, and regulations in New England compare with those in other parts of the country where transportation conditions are somewhat the same as here. That information the commission has in the tariffs on file with it at Washington.

There is, third and finally, the question of service. How does the service which is rendered the public here compare with that elsewhere?

Upon that point the commission is dependent, of course, upon the shippers. We must inquire of them what the service is, whether satisfactory or unsatisfactory, and the reason for the condition.

At this hearing, ending on July 3 and adjourned to some date in September upon the suggestion of the chairman, the conditions of service were noted. About two months were consumed by my associate, Mr. Perry, in preparing a statement showing what that service was. I am only saying these things to you to show how much we have been investigated, and to prove what I said to Congressman Murray this morning, that we have been investigated for about six years and that there ought to be some limit to this investigation. On July 11, 1911, a most distressing wreck occurred upon the New York, New Haven & Hartford Railroad at Bridgeport, caused, as the inspector of the commission found and the commission confirmed, by disregarding the signals and by too fast running over crossings. The report of that commission indicated that the track, roadbed, signals, and other equipment of the New York, New Haven & Hartford Railroad were in a perfect condition. Another wreck occurred on October 3, 1912, at Westport, Conn. The findings of the commission—by the way, if Mr. Perry will be kind enough to file that I will be very glad. Herein, gentlemen, I will answer these statements that have been made in reference to the roadbed, by citing the documentary evidence. On page 2 of the report I read the following:

This part of the New York, New Haven & Hartford Railroad is a four-track road. The rails weigh 100 pounds to the yard and are laid on oak, chestnut, and creosoted pine ties, there being about 18 ties under each rail. Rock ballast is used, and the roadway at this point is in good condition. The accident occurred at the beginning of a curve $1^{\circ} 6'$ leading to the left. There is a descending grade for west-bound trains of 0.07 per cent. Approaching the scene of the accident from the east, the track is straight and the view is unobstructed for more than 1 mile. Train movements are governed by signal indications, and train orders are not used (except in the case of moving a train against the current of traffic), the road being equipped with controlled manual block signals, which the evidence and investigation show were in proper working condition. Enginemen can tell by the signals displayed which track their train will use, whether it shall stop, proceed on the same track, or be diverted to another track.

At Westport there is a tower equipped with a 40-lever mechanical interlocking plant, with 4 controlled manual block instruments, 15 electric locks, 6 signal repeaters, and 6 bells. The switches governing crossover movements are controlled from this tower by means of the interlocking mechanism, and are interlocked with the block signals. A careful examination of this interlocking plant was made after the accident. The circuit plans, locking sheet, and dog chart were checked with the plant as installed, and the operation of the signals and locks fully tested. Everything connected with this plant was found in proper condition, and there was nothing to indicate that it would have been possible for the engineman on train second No. 53 to have been misled by improperly displayed signals.

Mr. BUCKLAND. On page 8 I read this:

As previously noted, the roadway and track conditions in the vicinity of the accident are good. The construction of the crossover was substantial. All renewals are made with creosoted ties, and on these ties tie plates are used as well as screw spikes. In some places the chestnut ties are badly worn, due to the face of the rail cutting into them, in some instances to a depth of three-fourths of an inch, but a sufficient number of tie-plated creosoted ties are in use to maintain safe track. At the crossover practically all the ties were new and screw spikes were used, and the track conditions at this point were good.

The CHAIRMAN. What do you read from?

Mr. BUCKLAND. From the report of the Interstate Commerce Commission, by Mr. McChord, commissioner, on the investigation on the New York, New Haven & Hartford Railroad wreck at Westport, Conn., October 3, 1912.

Mr. LENROOT. Did they find any cause?

Mr. BUCKLAND. The cause was identically the same as the cause of the Bridgeport wreck, an engineer running through a crossover at a high rate of speed. The Bridgeport wreck occurred on the Federal Express, about 3 o'clock in the morning, and there were no witnesses to that wreck except the tower operator, who saw the train coming. The Westport wreck occurred about 4.30 in the afternoon, and there were 20 or 30 or 40 witnesses in two work trains near by, so that we knew exactly what happened at the Westport wreck, although we could only surmise what happened at Bridgeport. I am giving you this documentary statement, the official Interstate Commerce Commission report, in view of all the statements that are going around in regard to the conditions of our track and roadway.

On November 15 our Merchants' Limited was derailed at a place called Green's Farms—the west-bound train. The cause of the derailment I will read from a report of the inspector of the Connecticut public utilities commission. I can not give you this as official, although I have every reason to believe it is, because I believe it is correctly quoted:

Chief Engineer Elwell, of the public utilities commission, in his report of an inquiry into the wreck of the Merchants' Limited Express over the New York, New Haven & Hartford Railroad, at Green's Farms, on November 15, filed to-day, attributes the cause to a broken equalizer bar on a diner, which, dragging through a switch, disarranged the points and derailed the cars next following. Mr. Elwell said that marks of the dragging broken bar were discernible on the roadbed before the switch was reached. He finds that the rails, ties, and switch fastenings at the point of wreck were in good condition. He says that at a joint hearing with the Interstate Commerce Commission it was conclusively shown that the defect in the equalizer drawbar could not have been seen at any car inspection. Mr. Elwell's recommendation is that railroad companies frequently make special examinations of equipment with a view to locating defects in metal parts.

At a joint investigation held with the Interstate Commerce Commission in New Haven on November 20, all testimony was to the effect that the equalizer bar broke on account of a flaw in the metal, which was so covered by the pedestal casting and the journal box that it could not have been discovered by any car inspection without removing the bar itself from the truck, and even then might have escaped detection.

Gentlemen of the committee, I might stop here and say no more, because I can not amplify our position any further if it were not for the fact that there have been statements made before the committee which I think should not go unanswered. They have nothing to do with the subject before the committee, whose duty will be limited in developing the scope of the resolution. Therefore I will take up some points which have been made and endeavor to answer them in a

manner which I think will bear investigation, because I shall refer to documents wherever I can.

First, to those of you gentlemen who do not live in our part of the country, I wish to say that the New York, New Haven & Hartford Railroad Co. is a company, 65 per cent of whose stock is owned in Massachusetts, Rhode Island, and Connecticut, about 30 per cent in New York, and about 5 per cent elsewhere. The control of the road is absolutely in southern New England, and the character of the stockholdings is such that it has been favorite stock for trustees, women, and children, and those desiring a safe and conservative investment. The securities other than stocks are largely invested in by the savings banks of New England. The stockholders annually elect a board of 27 directors, 14 of whom are, according to the charter of the company, required to be residents of the State of Connecticut; that is, a majority are required to be residents of that State. There are 4 directors in Massachusetts, 1 in Rhode Island, 4 in New York, and 2 in Pennsylvania. That indicates the distribution of the directors. The directors are, I think I may say without exception, men who have made good in New England. There is Mr. Theodore N. Vail, the president of the American Telephone & Telegraph Co.; there is Mr. Alexander Cochrane, of Boston, the president of the Cochrane Chemical Co.; Mr. Sidney Winslow, living in or near Boston, president of the United Shoe Machinery Co.; and Mr. William Skinner, president of the Skinner Manufacturing Co., all living in Boston.

In Rhode Island Mr. Robert W. Taft, president of the Merchant's National Bank, treasurer of the Coventry Co., a man born and raised in Rhode Island, the son of a distinguished governor of that State. In Connecticut such men as Mr. Charles F. Brooker, of the American Brass & Copper Co.; Mr. Maxwell, of the Rockville Woolen Manufacturing Co.; Mr. A. F. Warner, of the Warner Corset Co., and Mr. Hemingway, the president of a bank; and so on. I might go through the whole list of directors, and in every case you will find them to be men who have made good among their friends and neighbors, stockholders and directors of this road.

I say this to you, gentlemen, because we have heard so much in these days of absentee ownership. The directors of the New York, New Haven & Hartford Railroad Co. are scattered all over its territory and are the representatives to whom the people having grievances against that company can go at any time because they are their friends and neighbors, and if there ever was a case opposite to absentee ownership, it is the case of the New York, New Haven & Hartford Railroad Co.

The company began by the merger in 1872 of two comparatively short lines of railroad. The Hartford & New Haven Railroad, running from Hartford about 60 miles from New Haven and Springfield, and the New York & New Haven Railroad, running from New York to New Haven. After that they further acquired the New Haven, Northampton & Naugatuck, the shore line and the air line railroad, all of them properties radiating from New Haven as a center. As the years went on the New Haven extended its line by acquiring the New York, Providence & Boston Railroad Co. and by leasing the Old Colony Railroad, which, with the Boston & Providence, allowed it to get

into Boston. All of these purchases were done by and with the assent of the legislatures of the various States through which these roads ran.

For many years the Old Colony Railroad Co. had acquired roads in the State of Massachusetts. For many years acquisitions of trackage had been made in the State of Massachusetts by and with at least the tacit acquiescence of the Massachusetts authorities, so that when the question arose in regard to the New York, New Haven & Hartford Railroad Co. acquiring the Boston & Maine Railroad Co., that was the situation. Now a reference was made to what was afterwards truly deemed to be a violation of the law, but which was simply what had been undertaken years before and had always been acquiesced in and recognized. I do not say this by way of defense, but by way of explanation. Every man is supposed to know the law, even though he may have made a mistake in doing what he did.

So it was with reference to the acquisition of the trolley lines. It is true the laws of Massachusetts forbade the acquisition of other corporations, but it is also true that the New Haven Road had, in the first place, believed itself to be a Connecticut corporation and not a Massachusetts corporation, until it was finally held to be a Massachusetts corporation by the Supreme Court. I do not say that in defense, but only by way of explanation.

Whatever may be said in reference to the acquisition by the New York, New Haven & Hartford Railroad Co. of steam or trolley properties in the State of Massachusetts, it is true that that matter was settled, and I hope settled finally with the authorities of Massachusetts when the Boston Railroad Holding Co.'s charter was passed. I could quote at length from this report in reference to the Boston Railroad Holding Co., but suffice it to say that that was a company which was organized after a full discussion by the legislature of Massachusetts to hold the stock of the Boston & Maine Railroad with the understanding that that stock should not be disposed of excepting with the acquiescence of Massachusetts, and that Massachusetts can, at its discretion, take over the stock of that company, and take over the Boston & Maine Railroad. That was the settlement of the various issues between the New York, New Haven & Hartford Railroad Co. and the Commonwealth of Massachusetts, and it seems to me that that settlement might be permitted to rest where it is, rather than gentlemen going into criminations and recriminations, as was done yesterday upon matters which were settled by the Commonwealth with one of its corporations.

Mr. HARDWICK. In the settlement of this question, were there any matters in violation of the Federal laws; I mean were any such matters involved in this settlement?

Mr. BUCKLAND. I assume not.

Mr. HARDWICK. Why not? Were there no Federal statutes that forbade that sort of thing?

Mr. LENROOT. Was there not a Federal suit pending at that time?

Mr. BUCKLAND. My recollection of the situation was this: I have not the documents here, but I think the complaint which Mr. White filed yesterday will indicate the situation. The New York, New Haven & Hartford Railroad Co. had not, at the time the Federal suit was brought, acquired the Boston & Maine Railroad. The particular thing complained of was the acquisition of certain trolley properties by the New York, New Haven & Hartford Railroad Co.,

and Mr. White to the contrary notwithstanding, my recollection is that the only interstate trolley owned by the New York, New Haven & Hartford Railroad Co., directly or indirectly, was a road running from Pawtucket, R. I., to Attleboro, Mass., a distance of 8 miles, operating under the corporate name of the Interstate & Consolidated Street Railway Co., and without knowing certainly, it is my impression that the Attorney General, in dismissing that suit found there was no competition which could be affected.

Mr. HARDWICK. He did not find that with reference to the Boston & Maine?

Mr. BUCKLAND. I think the Boston & Maine was not owned at that time by the New York, New Haven & Hartford Railroad.

Mr. HARDWICK. Whatever they did, did they not acquire it in violation of the Federal law?

Mr. WALKER. A bill was passed with reference to the consolidation between the Boston & Maine and the New York, New Haven & Hartford Railroad.

Mr. BUCKLAND. That was in regard to the proposed consolidation, not the actual consolidation.

Mr. HARDWICK. I understood you to say just a moment ago that no one had a right to complain because the States had acquiesced in this; that Massachusetts had, for instance, acquiesced in the acquisition of the Boston & Maine Railroad by your company. Even if Massachusetts did acquiesce in it, and it was in violation of the Federal statute, that would be a different proposition.

Mr. BUCKLAND. Assuming that you are correct, Mr. Hardwick, in your statement, there is only one answer to the question. It is that the assumption was that the acquisition of the Boston & Maine Railroad is not in violation of the Federal statutes——

Mr. HARDWICK. Because it is not a competitor?

Mr. BUCKLAND. Not a substantial competitive line.

Mr. HARDWICK. I understood one gentleman here to say there were at least 30 places where it was competitive in the one State of Massachusetts.

Mr. BUCKLAND. The points of competition are shown upon the map here before you, and they are Boston, Lowell, Fitchburg, Springfield, Holyoke, Northampton, Turners Falls, and Shelburne Falls.

Mr. HARDWICK. So that you then question the accuracy of that statement?

Mr. BUCKLAND. I think it is not correct.

Mr. LENROOT. Was not Worcester a competitive point?

Mr. BUCKLAND. Yes, that makes nine.

Mr. HARDWICK. Do you not consider it pretty general competition when you have competition in nine of the great cities of Massachusetts?

Mr. BUCKLAND. I think the evidence will show that whatever competition there is, is rather incidental competition, and confined to intrastate business. I think it is a very serious question to say as to whether or not that competition is not within the meaning of the law, since the recent Supreme Court cases.

Mr. HARDWICK. You mean since the Union Pacific case has been decided?

Mr. BUCKLAND. Yes; the recent Supreme Court decision. Put yourselves back into the place in which we were at the time this was done, and you can see what we had to contend with.

Mr. HARDWICK. So that you by no means conceded it then, as you do not now?

Mr. BUCKLAND. That is it.

Mr. HARDWICK. You say, as far as the Commonwealth of Massachusetts, at least, is concerned, she ought to be estopped from making this point. Is that the idea?

Mr. BUCKLAND. No. My argument was particularly directed toward meeting the statements made here yesterday, statements of a lot of things which took place prior to our arranging our difficulties with the State of Massachusetts. It is as if two men had gotten together and agreed that whatever has taken place back of that agreement is perfectly wiped out. I will leave that subject with this statement: That I am fully convinced that any terms which Mr. Mellen made to the legislature or other properly constituted authority of Massachusetts in reference to the acquiring of any properties were carried out in the fullest faith, and if your committee or any committee appointed to investigate this matter has any doubt about it, Mr. Mellen will cheerfully appear before this committee and give his own statement in regard to it.

Mr. GARRETT. It seems that Mr. White, however, yesterday did point out some specific instances of acquiring properties. Did you make a note of that?

Mr. BUCKLAND. I did.

Mr. GARRETT. What have you to say of those instances?

Mr. BUCKLAND. Personally I do not know, except as I have talked with Mr. Mellen in regard to the statement Mr. White has made. I was engaged at the other end of the line, and I do not know specifically. Mr. Mellen has told me over and over again that he has kept the fullest faith with the legislature of Massachusetts, and he is willing at any place and time whatsoever to prove that to the satisfaction of any committee.

Mr. GARRETT. My recollection is that Mr. White stated yesterday that after that agreement had been entered into the Boston & Maine was acquired.

Mr. BUCKLAND. My recollection of it is—and I only say this personally, not speaking by authority—that the only statement which Mr. Mellen made, and the only statement which Mr. White claimed he made was that with reference to the acquisition of the trolley property. I give that as my guess of the matter. I am not competent to talk about it, because Mr. Mellen is more competent than I.

Mr. LENROOT. I have before me what purports to be the letter of Mr. Choate, reading this way:

Mr. Mellen authorized Mr. Choate to state to the legislature that they will not enter upon further acquisitions in Massachusetts other than those already contracted for, or build any trolley lines except such as are now under actual construction, until such times as the merger question has been settled. Mr. Mellen is willing, if the committee desires it, to furnish a list of the properties already contracted for or under construction, to avoid any future misunderstanding.

Mr. HARDWICK. Did not that relate to the general subject matter of the acquisition of the trolleys?

Mr. LENROOT. That is a letter.

Mr. BUCKLAND. I would rather you would take the testimony from Mr. Mellen direct when the time comes, and say nothing in regard to it. Considerable testimony has been offered here in regard to the ownership of steamship lines by the New York, New Haven & Hartford Railroad Co.; upon that I wish to state briefly as follows: I have made this statement to the Commissioner of Corporations, to the Interoceanic Canal Committee of the Senate, and I now make it to this committee.

The original lines of steamboats were, with one or two exceptions, built by the constituent roads now making up the New York, New Haven & Hartford Railroad Co. in order to give them entrance into New York City.

Put yourself back to the conditions of things in 1807 when Fulton discovered the steamboat, and you will find that radiating out from New York were a series of highways, connecting what were the principal cities then and what are the principal cities now of New England. When the steamboat came it displaced the wagon and the coach which ran parallel to it, and therefore we find very early in the history of New England that steamboats ran from New York eastward and touched at all points on Long Island Sound and Narragansett Bay. When the railroad was invented in 1832, or the first railroad built in New England in 1832, it was presumed for a time that a railroad could compete with a steamboat line, and you will therefore find that most of the railroads in New England were built at right angles to the steamboat lines, running in a north and south direction. I call attention to the Boston & Providence Road built in 1833, to the Norwich & Worcester road, built in the early forties, running from Norwich to Worcester, to the Hartford & New Haven road, running from New Haven to Hartford, which was built some years before the New York & New Haven, all because it was supposed that a rail line could successfully compete with a steamboat line. Therefore those rail lines early became coadjutors of the steamboat lines, and not competitors.

The Old Colony Railroad Co., running from Boston to Fall River, built a line of boats and incorporated the Old Colony Steamboat Co., to deliver its goods into New York in that way. The Providence & Stonington Steamship Line was similarly constructed by the New York, Providence & Boston Railroad Co., to deliver goods coming from Boston to New York by way of Stonington and Providence. The Norwich & Worcester Railway Co. similarly built boats to run on that Norwich line under the corporate name of the Norwich & New York Transportation Co. The Hartford & New Haven road was similarly allied with the New Haven Steamboat Co., which carried its goods into New York. Before the Hudson River road was built a steamboat line from New York to Bridgeport carried its goods to Albany by way of the Housatonic road, up to Albany. That was the origin of the steamboat lines of New England. They were built by us, they belong to us, we made the business which those lines carry to-day. We have always given on all commodities and on most classes of traffic a differential, a lower rate by way of the steamboat lines than by way of the all-rail lines. So that to-day shippers in New England can load their goods onto steamboat lines and carry them for a lower rate and have them delivered into New York more quickly and at more advantageous places than by the rail lines.

In the hearings before the Committee on Interoceanic Canals of the United States Senate, on page 703, in answer to a question of Senator Townsend, I made the following statement, correcting an error which I had made before:

Mr. Campbell advises me that I was in error in making that statement; and I wish to file here a schedule of our class and commodity rates, showing that the class rates by water are 3 cents per 100 pounds, or 60 cents per ton on the average, cheaper than the all-rail rate, and the commodity rates are 11 cents per 100 pounds, or \$2.20 per ton, cheaper than the all-rail rates.

The statements submitted are as follows:

Class rates.

Between New York and—	1	2	3	4	5	6
Bridgeport:						
Water.....	14	11	8	7	6	5
Rail.....	17	15	12	9	8	8
New Haven:						
Water.....	16	13	11	8	7	6
Rail.....	19	16	14	11	10	9
New London:						
Water.....	20	17	14	12	10	9
Rail.....	22	19	16	13	11	10
Providence:						
Water.....	27	23	18	16	14	12
Rail.....	31	27	22	18	17	15
Fall River:						
Water.....	27	23	18	16	14	12
Rail.....	32	29	24	18	17	15
Newport:						
Water.....	27	23	18	16	14	12
Rail.....	32	29	24	18	17	15
New Bedford:						
Water.....	27	23	18	16	14	12
Rail.....	32	29	24	18	17	15
Boston:						
Water.....	29	24	18	17	14	12
Rail.....	34	29	23	19	17	15
Rail and water.....	34	29	21	19	16	14

Commodity rates.

Between New York and—	Cotton piece goods.	Woolens.	Boots and shocs.	Dry goods.
Lowell:				
Rail.....	25	35	35	35
Rail and water.....	15	15	30	26
Fall River:				
Rail.....	24	32	32	32
Rail and water.....	11	14	24	19
Worcester:				
Rail.....	21	32	32	32
Rail and water.....	13	15	25	20
Brockton:				
Rail.....	24	32	32	32
Rail and water.....	12	15	25	20
Watuppa:				
Rail.....	24	32	32	32
Rail and water.....	11	14	24	19

I file here a schedule of our water rates, water or rail rates, to and from New England points.

Mr. HARDWICK. Is it the contention of the New York, New Haven & Hartford Co. that it has not acquired a single steamboat line at any time since it became unlawful. Since the act of Congress which prohibits railroads from buying out steamboat lines?

Mr. BUCKLAND. No, we have not.

Mr. HARDWICK. Is that the first legislation you know of?

Mr. BUCKLAND. That is the first, unless the Sherman law does in general terms.

Mr. HARDWICK. To put it back, the Sherman law was passed in 1890. Have you acquired any new steamship lines since that?

Mr. BUCKLAND. Yes, many of them. We have acquired—I will correct that—we have the Joy Line which then ran from New York to Providence and Boston. We have acquired the Maine Steamship Co. which ran from New York to Portland. We acquired a half interest in the Merchants & Miners' Transportation Co., running from Boston and Providence to Newport News, Norfolk, and Baltimore. All of those we control, except the Merchants & Miners' Transportation Co., which, as I testified before the Senate Committee on Interoceanic Canals, was covered by a trust agreement, wherein the New Haven road had a right to nominate half the directors, the other stockholders had the right to nominate the other half, and the odd director was determined upon by the Safe Deposit and Trust Co. of Baltimore, so that we have not either a practical, a physical, or a theoretical control of the Merchants & Miners' Transportation Co. To-day we do not own any line or exercise any control over any line of steamships running east of New Bedford, Mass.

Mr. HARDWICK. You do not have anything down to New York?

Mr. BUCKLAND. Nothing east.

Mr. HARDWICK. You do not run any more to Boston now, then?

Mr. BUCKLAND. No. The steamers running to Boston, those running to Portland, were sold to the Eastern Steamship Corporation. There have been a considerable number of innuendos made here in regard to our relations with the Eastern Steamship Corporation. I have stated this before the Panama Canal Committee, before the Interstate Commerce Commission, and I now state it here: The Eastern Steamship Corporation owes the New York, New Haven & Hartford Railroad for some three or four steamers which the New Haven road sold to it, and the New Haven road has taken bonds and some stock—not a controlling interest—in payment for those boats, because they had not anything else with which to pay for them. Those bonds and that stock are in the market at a price which approximates the appraised value of the steamers sold to the corporation. We have not a man on the board of directors; we do not exercise any control, directly or indirectly—we could not if we wanted to—in the affairs of the Eastern Steamship Corporation or in any corporation running east of New Bedford.

Mr. LENROOT. Are the stockholders common stockholders?

Mr. BUCKLAND. No; my impression is that they are not at all. There is no common interest at all. Mr. Mellen's statement before the Panama Canal Committee, on page 737, I quote from:

We have a further investment which comes about in this way: We formerly owned the Maine Steamship Co., plying between New York and Boston. We sold this late last year to the Eastern Steamship Co., and the Eastern Steamship Co. delivered us in payment certain stock and bonds, which we are holding, intending to sell and liquidate that interest. It is purely a question of getting the price at which we value the securities, and they are for sale at any moment.

The attitude of New England toward our ownership of the steamship lines was nowhere better represented than at the time the

Panama Canal bill came up. I think I am stating the truth when I say there was not a dissenting voice in regard to our retaining our ownership in these steamship lines. I think I am correct in saying that not even the Boston Chamber of Commerce opposed that proposition. The legislature of the State of Rhode Island passed a joint resolution instructing its Senators and Representatives to request that that clause in the bill which would embarrass us in the ownership and operation of those lines be omitted. Similar resolutions were adopted by the Chamber of Commerce of New Haven and, I think, of Bridgeport. At any rate, a number of the New England shippers think they are better served by the rail-and-water delivery into the lower part of New York than by taking chances in getting their shipments through the congested terminals which lead into New York City.

Now, in reference to our ownership of the trolley lines, the New York, New Haven & Hartford Railroad Co. has, for some 20 years to my knowledge, owned some of the trolley lines in Connecticut. It was our observation that these trolley lines could under a common ownership give a better service in connection with the steam lines than they could under a divided ownership. They were not essentially competitive, they never have been essentially competitive, and the combination of ownership of steam and trolley lines I think has resulted—and I say this believing the people who live along our lines will bear me out in it—has resulted in a greater traffic being more conveniently handled by both steam and trolley lines.

Mr. GARRETT. Do the trolley lines carry both freight and passengers?

• Mr. BUCKLAND. Only in places. A great many of our cities have fairly narrow streets and there is a great deal of opposition toward the standard size cars of the railroad company running through those streets. There is an express business carried on by the trolley companies and at a very considerably lower rate than that carried by the Adams Express Co. on our steam lines. Then, too, the groove rail makes it impossible, inasmuch as the groove is generally narrower than the tread of the narrowest buggy that is driven on the street and too narrow to take the flange of a standard car, and that makes it impossible to handle the standard cars that way. But in some cases there are certain streets upon which they permit a T rail to be laid, in order that the standard cars may be taken from our house by an electric locomotive and carried to their destination at a cost of 50 cents. This may be at variance with your ideas as to what is proper transportation; but when I tell you that in southern New England as much money is spent in getting goods from cars at the houses to the factories and back again as is paid to the railroads for carrying them, you can readily see that anything which will cut out the cartage charge and deliver the goods to the manufacturers in this way is in the interest of efficiency and economy, and ought to be encouraged. That is the gospel which I have preached among my friends ever since I have been authorized to represent the New York, New Haven & Hartford Railroad Co.

Before leaving this subject of trolleys——

Mr. GARRETT. Then, as I understand, your contention is that in the acquiring of these trolley lines you have really supplemented your service?

Mr. BUCKLAND. Yes, sir.

Mr. GARRETT. And not destroyed competition?

Mr. BUCKLAND. No, sir.

Mr. LENROOT. Not destroyed competition?

Mr. GARRETT. That is your contention?

Mr. BUCKLAND. Absolutely; I say that advisedly.

Mr. GARRETT. You said a while ago they are not essentially competitive. What do you mean by that?

Mr. BUCKLAND. Perhaps I can not state it any better than by referring to these gentlemen who live in Pawtucket and Woonsocket. They will bear me out in the statement that since our acquisition of the line running from Providence and Woonsocket we have not in any way used one line for the purpose of promoting the other. If a man wants to go by trolley he goes that way, and if he wants to go by the steam road he goes that way. Is that not so?

Mr. BROWN. The Providence & Woonsocket line was a competing line, and since the New Haven road has acquired it we have not suffered by reason of crippling the traffic at all, and the rates have remained the same as when the two lines were competing lines. On the trolley a man can go from Pawtucket to Providence for 20 cents and get a transfer——

Mr. BUCKLAND. From Woonsocket.

Mr. BROWN. Yes; from Woonsocket. To go by the railroad we have to pay the regular fare of 35 cents. The rates were just the same before the acquisition of the trolley line by the New Haven road. But they were competing lines.

The CHAIRMAN. All the trolley lines are parallel with the steam lines?

Mr. BUCKLAND. Yes, sir; practically parallel.

The CHAIRMAN. Parallel and competing. Of course, you would have considered them competitors before you acquired them.

Mr. BUCKLAND. I do not think so, Mr. Chairman. I do not know whether I can convey to your mind what is in my mind. If a man wants to go by trolley, he goes by trolley, or he may go by steam, and there is no difference in that.

The CHAIRMAN. Down in my State of Texas we are now building hundreds of miles of these trolley roads, and in every instance they are parallel with the steam roads, and in order to compete with them the steam roads have reduced the passenger and freight charges. After a while if these steam roads were to undertake to absorb the trolley lines they would be absorbing competing lines. Did the same condition obtain in New England before you acquired these trolley lines?

Mr. BUCKLAND. Only to the degree that the country through which the lines operate is much more continuously settled, and there are fewer of the intersuburban lines to which you refer, so that there is no real competition in that service. A line which is running along the highway and stops anywhere to take on passengers is not a potential competitor with a through fast service.

The CHAIRMAN. Those lines I speak of are competitors with the railroads, and the railroads are putting on motor cars and giving more frequent service.

Mr. BUCKLAND. I think you mean what would be comparable to the interurban service of the Middle West.

The CHAIRMAN. That is what I am thinking of. What did you pay for these roads?

Mr. BUCKLAND. That would take a long time to answer. I would have to go into each case.

The CHAIRMAN. You have no idea of the cost in comparison with the real value; the cost of your road in comparison to the market value?

Mr. BUCKLAND. I would rather not make any definite statement upon that because I might not be stating what is exactly true. My recollection of that is that with the exception of the Rhode Island properties that all of the lines acquired were acquired upon the basis of an earning value, not the market price of the stock.

Mr. GARRETT. Pardon me. Why did the New Haven road desire to acquire these trolley lines?

Mr. BUCKLAND. Because they were supplementary to its regular business of transportation.

Mr. MURRAY. May I ask a few questions of the gentleman from the railroad?

The CHAIRMAN. If Mr. Buckland does not object.

Mr. BUCKLAND. I would rather go on with my statement.

Mr. MURRAY. It occurs to me it is pertinent here.

Mr. BUCKLAND. Very well.

Mr. MURRAY. Were the trolley company holdings of the New York, New Haven & Hartford Railroad Co. as of date of June 30, 1910, \$71,149,214?

Mr. BUCKLAND. I do not know.

Mr. MURRAY. Do you know in any general way what those holdings were?

Mr. BUCKLAND. What do you mean, the capitalization?

Mr. MURRAY. Yes.

Mr. BUCKLAND. I do not know.

Mr. MURRAY. Can you give us any information on that line?

Mr. BUCKLAND. I have not the annual report here.

Mr. MURRAY. You have the Massachusetts validation report.

Mr. BUCKLAND. That was compiled as of two years prior to that date.

Mr. MURRAY. Suppose you refer to that and see what it was then. There were not many trolley holdings taken over between 1908 and 1910.

Mr. BUCKLAND. Suppose you take that and find it.

Mr. MURRAY. Perhaps you can find it yourself. Perhaps we can get it.

Mr. HARDWICK. Suppose you tell him where you got those figures.

Mr. MURRAY. I got them from a statement prepared by Mr. Joseph Edom, who is the secretary of the Public Franchise League. That league, Mr. Chairman and gentlemen, is an organization that was formed in the city of Boston and surrounding cities for the purpose of conducting investigations into matters relative to public service corporations for the purpose of presenting that information to the public bodies interested and for those who might have occasion to pass upon these questions.

Mr. HARDWICK. Is that their estimate?

Mr. MURRAY. No, these are the figures of the Massachusetts Validation Commission's report.

Those figures which I have show that the trolley company holdings of the New York, New Haven & Hartford roads as of date of June 30, 1910, were \$71,149,214.

Mr. BUCKLAND. Just what are you referring to, stock, or stock and bonds?

Mr. MURRAY. Stocks, bonds, stock premiums, notes, and such elements of accounting.

Mr. BUCKLAND. Does that take into consideration the fact that some of them are leased lines, and refer to the capitalization of those leased lines?

Mr. MURRAY. I think it does.

Mr. BUCKLAND. I do not know. I do not think we can go into that detail, but I am willing to make up a statement in answer to that.

Mr. MURRAY. Tell us something about the income of your railroad from the trolley lines of New England.

Mr. BUCKLAND. I can not.

Mr. MURRAY. It is a fair statement that the income of the New York, New Haven & Hartford Railroad Co. from these lines is \$1,839,996, or a little less than 2.6 per cent?

Mr. BUCKLAND. I do not think that is a fair statement.

Mr. MURRAY. Can you tell me in what respect it is an unfair statement?

Mr. BUCKLAND. I think it is too small.

Mr. MURRAY. Then can you tell me what the figures should be?

Mr. BUCKLAND. I told you I did not know what the approximate figure is.

Mr. MURRAY. I told you what figures I had, and you said they were too small.

Mr. BUCKLAND. That is my opinion.

Mr. MURRAY. Can you tell us anything about the New York & Stamford trolley companies?

Mr. BUCKLAND. What do you want to know about them?

Mr. MURRAY. About the capitalization, the present capitalization as compared with the value previous to the taking over by the New York, New Haven & Hartford Railroad Co.

Mr. BUCKLAND. No; but there was a great deal of building done by the New York & Stamford Railway Co., and the consolidation of the original New York & Stamford Railroad Co. with a large number of other lines, which I think will account for the difference.

Mr. MURRAY. You spoke about the New England Navigation Co.

Mr. BUCKLAND. No, I did not.

Mr. MURRAY. Well, is the capitalization of that company about fifty-six or fifty-seven million dollars?

Mr. BUCKLAND. I think a little less than that; I think it is about fifty-three million.

Mr. MURRAY. Can you tell us anything about the income from that investment during the last year?

Mr. BUCKLAND. No.

Mr. MURRAY. Can you tell us whether it was approximately two and a quarter million dollars?

Mr. BUCKLAND. No, I can not.

Mr. MURRAY. Or what the present year's income will be?

Mr. BUCKLAND. I can not.

Mr. MURRAY. Whether it is not a little less than 4 per cent?

Mr. BUCKLAND. I can not.

Mr. MURRAY. Can you tell us anything about the present capitalization of the New York, New Haven & Hartford Railroad Co., what the total capitalization is at the present time?

Mr. BUCKLAND. My recollection is that it approximates, capital stock issued and outstanding, about \$121,000,000.

Mr. MURRAY. I beg your pardon?

Mr. BUCKLAND. My recollection is that it approximates, the capital stock issued and outstanding, about \$121,000,000.

Mr. MURRAY. That is the extent of the capitalization?

Mr. BUCKLAND. Stock issued and outstanding.

Mr. MURRAY. Can you tell us what it was in 1902, before the alleged enterprise of the New Haven in taking over other companies?

Mr. BUCKLAND. It was very much more than that, and for reasons which I shall be very glad to indicate.

Mr. MURRAY. And the statement of Mr. Edom that the capitalization had increased from \$87,000,000 up to \$450,000,000 in 1912 is not correct?

Mr. BUCKLAND. No; not if he refers to the stock.

Mr. MURRAY. Have you told the committee the extent of the present holdings of the New York, New Haven & Hartford Railroad Co. in the New England Navigation Co., and in the various street-railway companies?

Mr. BUCKLAND. Ask me just what you want to know, and I will be glad to answer your question.

Mr. MURRAY. Have you told anything about the taking over of the New England Navigation Co.?

Mr. BUCKLAND. We always owned it.

Mr. MURRAY. You always owned it?

Mr. BUCKLAND. Yes.

The CHAIRMAN. Mr. Buckland has gone into those things.

Mr. MURRAY. Did you always own the Rhode Island stock?

Mr. BUCKLAND. No.

Mr. MURRAY. When did you take that over?

Mr. BUCKLAND. In 1906, December 19.

Mr. MURRAY. Did you organize that?

Mr. BUCKLAND. No.

Mr. MURRAY. Do you know what its present capitalization is?

Mr. BUCKLAND. You probably do not know a good many things in regard to this matter.

The CHAIRMAN. Mr. Buckland has gone into some of those things in your absence, and I think just at present he would prefer to pursue the discussion along some other lines.

Mr. BUCKLAND. Most of the questions which you have been asking me are questions which should be properly addressed to an accounting officer, and all of those questions are now being investigated and answered before a committee of experts of the Interstate Commerce Commission who are examining our books at New Haven.

Mr. MURRAY. Of course, we have not benefit of having an accountant here of whom to ask those questions. You are the only man in sight we can ask them of.

Mr. BUCKLAND. The Federal Government will have access to the answers of all of those questions when this committee of experts of the Interstate Commerce Commission, examiners who are trained in that sort of thing, make their report.

Mr. MURRAY. Mr. Chairman, the only purpose of my asking these questions is to give the committee some definite idea of the kind of information that I for one—and I believe those who are interested in this investigation—desire to have answered, if we have the benefit of a special committee to do so.

Mr. BUCKLAND. Mr. Murray, if you had been here when I started you perhaps would not have asked me these questions, because I here stated that questions of that kind were being answered in the investigation that was going on by the Interstate Commerce Commission now.

Mr. MURRAY. I think it is only fair to say that I came here from the House of Representatives where I had been to answer to my name on a roll call.

The CHAIRMAN. Mr. Buckland went into a great many of those things, Mr. Murray, and I do not believe right at this time it would help much to interpolate the questions here, but later on it will be all right.

Mr. MURRAY. Yes, when you give us the special committee.

Mr. GARRETT. There is one other question I should like to ask just now. Just before Mr. Murray began questioning I asked you why your companies desired to acquire these trolley lines, and you replied because they were supplemental or complementary of your companies' business. In just what way are they complementary?

Mr. BUCKLAND. In the way in which I have already stated, by the utilization of the joint facilities of the steam and the trolley roads in reference to the handling of freight, and in being able to render jointly services which can not be rendered so well separately.

Mr. GARRETT. That is true in the cities; that is to say, assuming that is true in the cities.

Mr. BUCKLAND. We have not very much—only a negligible quantity of interurban roads in the sense in which you gentlemen are familiar with them. When I say to you that practically all of our trolley lines run in the highway, in the public highway, whether they run between villages or not you can readily realize that they are not in the class of the interurban roads which you gentlemen doubtless have in mind whose cars run at the highest speed between distant places.

Mr. GARRETT. The great bulk of the mileage of trolley lines which you own is in cities or towns, then, is it?

Mr. BUCKLAND. In cities, yes. That is a true statement. And a comparatively small amount of it runs between towns, and even a smaller percentage of that amount runs on any private right of way.

Mr. HARDWICK. Now let me see if this is not what you are driving at. I think I understand it. You say you have an electric line between towns—we will illustrate—20 miles apart. A man who was going to travel the whole 20 miles, travel from one town to the other, would take a steam road for that travel, would he not?

Mr. BUCKLAND. That is right.

Mr. HARDWICK. But if he was going to stop along the line, on local business, he would take the trolley?

Mr. BUCKLAND. Yes. I have heard of men traveling from Providence to Boston by trolley, but I do not think they want to try it more than once. I have heard of people traveling from Hartford to New Haven by trolley, but they do not want to do it more than once. You know they stop at every white post on the line.

Mr. HARDWICK. I thought I knew, because I had been through an experience like that in the last few months.

Mr. BUCKLAND. Then, gentlemen, I do not know that I am going to say any more now except perhaps this: I want you to bear this in mind, if you will. In the State of New York, in the State of Connecticut, in the State of Rhode Island, and I suppose after this session of the legislature in the State of Massachusetts, there are or will have been established public utilities commissions, all of which will have even greater powers in connection with service and rates on intrastate transportation than the Interstate Commerce Commission has over interstate transportation. For instance, in the State of Connecticut and in the State of Rhode Island the public utilities commissions can not only, in the last analysis, upon complaint, but even upon their own initiative fix rates of freight which are fair, and not only that, but they can do more than the Interstate Commerce Commission can do, they can determine service. Therefore, when gentlemen like Mr. Gamble of the Lonsdale Co. complain of rates on coal—and parenthetically I may say I have never seen any money in carrying coal at less than 50 cents a ton, because it is a distance of 10 miles, it involves switching, it involves three terminals, and involves hauling back free of charge. If Mr. Gamble does not like the rate from Wilkes-Barre pier to Lonsdale he has an ample remedy in his own jurisdiction, and so it is with reference to all of the public utilities commissions in those various States. In other words, a resort to home rule will take care of most of the alleged evils of which they complain.

Mr. LENROOT. Right there, Mr. Buckland, that power has been challenged. It is now pending in the Supreme Court in what is known as the Minnesota case—the extent of the power of the commission.

Mr. BUCKLAND. Only in so far as the local rates necessarily reduce an interstate rate.

Mr. LENROOT. Exactly, but that is very far reaching.

Mr. BUCKLAND. That would not apply to the Lonsdale Co.

Mr. LENROOT. Not the particular case, no.

Mr. BUCKLAND. I hope my Providence friends have not all gone. I only wanted to say this in reference to the water front at Providence, said in order that the statements may not go unchallenged. I personally bought most of the harbor facilities, the dockage which the New York, New Haven & Hartford Railroad owns to-day. When I went to Providence in 1898 a certain stretch of harbor front between what is known as Fox Point and India Point, in the vicinity of half a mile or a quarter of a mile in length, was intersected by various other wharf properties, and in order that we might develop our yard at that place I bought it. I paid anywhere from, my recollection is, 40 cents to \$1 a square foot. I have been offered, and I can to-day take half the money and buy as much water front in Providence, and equally well adapted for the purposes and contiguous to a railroad. I refer to that because I am not talking on hearsay now—two offers which I have repeatedly declined to entertain of property on the east side of Allen's Avenue where our tracks are now laid, and where it was agreed that the Southern New England tracks might be laid. That has been offered to me for 6 cents a square foot, and as to which it would be entirely practical to wharf out and make a water frontage equally adaptable to that which the New Haven road owns.

I am saying this, gentlemen, only to show you that we do not monopolize the water front of Providence. We do not monopolize the water front of Narragansett Bay, and it would be perfectly absurd for any man in his senses to attempt such monopoly. And the only reasons that I had in buying the water front in Providence was for the purpose of making a continuous development of our own freight yards and wharves.

Mr. LENROOT. In that connection, have there ever been any prosecutions for failing to furnish trackage facilities to wharves on your road?

Mr. BUCKLAND. I know of none. On that question of the Fabre Line which has been brought up here—I am sorry Capt. Briggs is not here because I wanted him to hear this. Capt. Briggs and Mayor Fletcher came to me and said that the Fabre Line was coming in from Azores Island and Genoa, and wanted some place to dock. I said, “You can have the Lonsdale Dock which is the only place we have here.” They said, “The water is not deep enough there.” I said, “You had better dredge it if you want to get up there, because you can have the dock. You can try it when you get up there; try it for a while. Then we will make our arrangements in relation to the cost of it.”

My recollection is that I paid for the Lonsdale dock something in the vicinity of \$60,000. The Fabre Line came in there. The dredging was done, and they landed passengers, and the only question which has ever arisen has been as to whether or not after this experiment has been successful we were not entitled to a fair rental on that dock. Now, I have done that. And, I want to say this without fear of contradiction, so far as the New Haven road has declined to receive freight from the Fabre Line or from any other line in Providence—I speak on the authority of our traffic manager, that such a report is absolutely without foundation—any company which would be guilty of turning away freight that was landed at its dock and force that line to go down to New York and ship that freight upon its rails at New York for the purpose of hauling it back there, must have a traffic manager who is absolutely drunk or crazy, and our men are not of that kind. They are not insane. They are not doing things which are absolutely absurd and unreasonable on the face of it.

Gentlemen, in conclusion, I started out by saying that we were a New England owned railroad. We employ more men in New England than any other industry, numbering about 65,000. There are over half a million people on our pay roll. I mean, dependent upon our pay roll. We have a larger stake in New England than any other industry in New England, and anything which we do to throttle or choke the prosperity of New England throttles and chokes ourselves. If ever there was a case where the community and the transportation companies should cooperate, should get together upon a basis of each fairly dividing the prosperity which should come to it, if there were ever a case where a supremacy of industrial development was absolutely cooperative and reciprocal, it is in the company which I represent.

Now I come back to my original proposition. Anything which you desire to investigate in reference to our relations with the Southern New England or the Grand Trunk is entirely open to you and will receive our hearty cooperation.

Mr. GARRETT. May I ask you this, is there any connection between the agreement which you read early in your remarks and whatever may have gone before that agreement, and the cessation of work on this line of railroad that runs through Providence, that you know of?

Mr. BUCKLAND. Not to my knowledge. I never knew or had any idea of the cessation of the work until I saw Mr. Chamberlain's dispatch in the Providence paper, I think it was.

Mr. GARRETT. And you have received no information in regard to that matter since?

Mr. BUCKLAND. None whatever.

Mr. HARDWICK. What reason did he give in this dispatch for the cessation of work?

Mr. BUCKLAND. Financial considerations, I think it was.

A GENTLEMAN IN THE AUDIENCE. The cold weather as well as financial considerations.

Mr. HARDWICK. What is the scope of this Federal investigation that is going on before the grand jury in the southern district of New York?

Mr. BUCKLAND. I do not know. I have not been summoned.

Mr. HARDWICK. Is it on account of this transaction, this Grand Trunk matter?

Mr. BUCKLAND. I think absolutely on that account.

Mr. HARDWICK. Suppose we order an investigation here on that matter. You say you will cooperate with us. Would we not find ourselves in this position, that the people that we want from your organization, your company, would come down here and say, "I am about to be indicted," or, "I am indicted, and I ask for the immunity under the constitution not to give evidence against myself." And could we get anywhere with that so far as the same is covered or duplicated by the United States court's investigation now pending?

Mr. BUCKLAND. That is largely a question of law. I assume that if any representatives of the New Haven road should desire to take advantage of the statute upon that point and refuse——

Mr. HARDWICK. The reason I asked you the question is this, you were so nice about saying that you were willing to cooperate with us, and I was afraid that after we got the investigation started the cooperation might take that form. The persons would come down, the very persons we have got to call on, who know about this thing, and we would put them on the stand, the committee would begin to interrogate them about this thing—you see I have been up against this thing before; that is why I asked you the question—and they would say, "I am about to be indicted," or "I have been indicted in the Federal courts, and under the constitution of the United States, I do not want to incriminate myself." Would not that be liable to occur in this instance?

Mr. BUCKLAND. I am rather at a loss to answer that question, because I do not know just what they are doing in that inquiry.

Mr. HARDWICK. I do not either, but I thought perhaps you did.

Mr. BUCKLAND. Mr. Mellen has stated in his letter to the district attorney of New York that he was the only one that had conducted the negotiations in regard to this Grand Trunk agreement, and that he was the only one that knew everything that had taken place, and I believe that statement of Mr. Mellen's to be the exact truth. Personally, I do not know anything about it; but if I am summoned

here I will waive all immunity and will come and tell you that I do not know anything about it.

Mr. HARDWICK. It would seem, then, that the only person who would do this committee any good would be Mr. Mellen.

Mr. BUCKLAND. He has already waived the question of immunity.

Mr. HARDWICK. I thought there was some question as to whether they would allow him to testify.

Mr. BUCKLAND. I think Mr. Wise raised the question as to whether he could waive it.

Mr. HARDWICK. I thought he came before the grand jury finally.

Mr. BUCKLAND. I do not know whether he has been summoned or not, or if Mr. Wise will allow him to come, but he has waived the question of immunity.

Mr. HARDWICK. He is willing so far as he can, then?

Mr. BUCKLAND. He is willing so far as he can. If he can waive the immunity, he will waive it, and therefore I do not believe——

Mr. HARDWICK. I was wondering, though, whether that would not be in the way of this particular investigation. That same trouble Mr. Wise is having we might have down here in Washington.

Mr. BUCKLAND. Of course, gentlemen, you are asking me now a question of technical law.

Mr. HARDWICK. No; I only meant to ask you——

Mr. BUCKLAND. I am perfectly willing to answer it, but it is a question of law, nevertheless, and my thought is that if you should summon a man to come before you and he did not want to come, and you made him come and made him testify, undoubtedly he would be immune, but I have seen no evidence of that on the part of the representatives of the New Haven road, beginning with the president and going all the way down.

These things come to my mind as I go along. When the Southern New England Railway Co. first made application to come to Rhode Island I was in charge of the law department of the railroad at that time and, among other things, delegated with the responsibility of conducting these legislative affairs. When the petition for the charter which Mr. Holmes testified to came in I challenged the good faith of the petition, thinking that there were not people of responsibility back of it, and that I questioned whether the Grand Trunk assumed any responsibility. A hearing was had, at which time I made that challenge in a room as large as this, attended by most of the legislators, and in the midst of that hearing a cablegram was read signed by Mr. Hays, stating, as somebody has testified here, that the directors of the Grand Trunk had assumed the full responsibility. I immediately withdrew the charge and then made this statement: That if the Grand Trunk is coming into Rhode Island as our competitor it is only fair to us that it be required to come in on equal terms, the terms which you have required of us in all new work, with no grade crossings, no crossing of trolley tracks at grades, no crossing of steam roads at grades, and I am entitled to ask that that restriction be placed upon the Grand Trunk. It may have the use of our passenger terminals upon a pro rate of the business done, but it shall have my opposition to taking any part of our freight terminals, because we have not any more than we need ourselves. I then said that if the Southern New England desires to come on those terms it will have no opposition from me or from the New York, New

Haven & Hartford Railroad Co. in Rhode Island. And, gentlemen, I have kept my word from that day to this.

The Grand Trunk tried to take part of our tracks from Harbor Junction, as the mayor testified to, and I opposed it, as I said I would, and I did. The Grand Trunk tried to lay out its tracks across a freight yard in Woonsocket. I opposed it, as I said I would. But with the exception of those two things, the Grand Trunk has had no opposition from the New York, New Haven & Hartford Railroad Co. in the State of Rhode Island.

I am sorry that the Providence gentlemen have gone, but if they were here I think they would substantiate that statement.

Mr. HARDWICK. Is that policy true in other New England States?

Mr. BUCKLAND. I was not responsible for that.

Mr. HARDWICK. I know, but I thought you might know.

Mr. BUCKLAND. I do not. Let me tell you this: Once as a result of the endeavor of my opposition to Grand Trunk using our tracks I was required to enter into an agreement on behalf of my company that would show them another way that would not cost them any more, and that bond is on file with the Secretary of State to-day.

Just by way of passing I wish to say that in New England there are the following lines as to which no control is had by the New York, New Haven & Hartford: The Central Vermont and its leased lines; the New York, New London & Northern, which is owned by the Grand Trunk; the Bangor & Aroostook, operating from Bangor into northern Maine; the Grand Trunk which runs into Portland; the Canadian Pacific which also runs, I think, to Portland, and the Boston & Albany, which is owned by the New York Central.

Mr. MURRAY. May I ask you a question?

Mr. BUCKLAND. Yes.

Mr. MURRAY. Is it true that there is a traffic agreement between the Boston & Albany and the New Haven road to divide profits and losses?

Mr. BUCKLAND. Yes, sir.

Mr. MURRAY. Will you tell the committee about that traffic agreement?

Mr. BUCKLAND. It is an operating agreement whereby the New York, New Haven & Hartford is given certain trackage rights over the Boston & Albany, and the net result is a division of profits of losses between the companies.

Mr. LENROOT. So there is no competition then?

Mr. BUCKLAND. Oh, yes, because they operate in different territories.

Mr. LENROOT. I mean so far as they might compete with each other.

Mr. BUCKLAND. They do not operate in the same territory.

Mr. MURRAY. Is it not true that in Fitchburg and the surrounding territory they do operate in the same territory?

Mr. BUCKLAND. I do not think so.

Mr. MURRAY. Has it been brought to the attention of the company, if you know, that complaint against that traffic agreement may be made as a violation of the Sherman antitrust act?

Mr. BUCKLAND. No, and moreover, Mr. Murray, my recollection is that that traffic agreement was approved by the railroad board of Massachusetts.

Mr. MURRAY. That would not be conclusive that it was not a violation of the Sherman antitrust law.

Mr. BUCKLAND. Undoubtedly. I wanted, though, to remove any imputations in your question that it was secret or unknown.

Mr. MURRAY. Of course, I know about that railroad end of the matter, but you do not mean to say to the committee that there is not any real or potential competition between any part of the territory served by the Boston & Albany and any part of the territory served by the New Haven?

Mr. BUCKLAND. Mr. Murray, I do not believe there is any part of the United States where there is not any real or potential competition with practically any other part of the United States.

Mr. MURRAY. So you say in answer to my question that there is such competition?

Mr. BUCKLAND. Yes; and there is everywhere.

Mr. MURRAY. I am only inquiring about that particular place.

Mr. BUCKLAND. I appreciate that if you carry that to its proper and legitimate conclusion you will have potential competition in practically every part of the United States. There is competition between the various lines of our own road in reference to industries.

Mr. MURRAY. Yes.

Mr. BUCKLAND. Take two companies which are producing the same thing—cotton goods or woollen goods, and having a common center—those industries compete with each other to the extent that you have got to put them into the common point of consumption upon the same basis.

Mr. MURRAY. What was the purpose of making traffic agreements of that sort?

Mr. BUCKLAND. Because we were in a position where we could throw a good deal of traffic to the Boston & Albany that they could not get otherwise.

Mr. MURRAY. It was a sort of beneficent arrangement on your part?

Mr. BUCKLAND. A good business arrangement.

Mr. MURRAY. Where was the good business arrangement from your point of view? Was it to give them something they could not get otherwise? You do not mention that part of it. That was a feature of the agreement, was it not?

Mr. BUCKLAND. I do not carry the wording of the agreement in my mind.

Mr. MURRAY. But you were to get something?

Mr. BUCKLAND. My recollection of it is—you of course know it—that for many years the Boston & Albany Railroad Co. from Springfield into Boston has been a part of a through line between Boston and New York.

Mr. MURRAY. Yes.

Mr. BUCKLAND. And the trains of the New Haven road, almost from the beginning, have run solidly through from New York to Boston and from Boston to New York via the Springfield line.

Mr. MURRAY. Yes.

Mr. BUCKLAND. The traffic agreement or operating agreement, or whatever you may call it, was only an amplification of what had been going on for a large number of years.

Mr. MURRAY. I have been fortunate enough to find that table that gives the facts about the Rhode Island Co. May I ask you about that now?

Mr. BUCKLAND. You may ask me, but I am afraid I shall not be able to answer.

Mr. LENROOT. I should like to get this one thing straightened out. I gather from what you say that there is no competition either by reason of the traffic agreement or otherwise between the Boston & Albany and the New Haven?

Mr. BUCKLAND. There is a possibility of competition. For instance, from Worcester to Springfield, if you come down here [indicating on the map], come down by way of Willimantic, and go up there [indicating].

Mr. LENROOT. Yes; but you will have traffic rights over that now?

Mr. BUCKLAND. Yes.

Mr. LENROOT. And in the division of profits and losses of course there is no competition?

Mr. BUCKLAND. It is not trackage rights. The locomotives of the Boston & Albany operate upon their own tracks.

Mr. LENROOT. Yes.

Mr. BUCKLAND. They take our trains through.

Mr. LENROOT. They take your trains through?

Mr. BUCKLAND. Yes.

Mr. MURRAY. At page 145 of the validation commission's report I find the book value of the Rhode Island Co. appraised at \$24,220,978.90, and I find in the next column the appraised value of that stock stated as \$6,000,000. Can you tell something about that—the Rhode Island trolley companies?

Mr. BUCKLAND. My recollection is—I do not carry these figures in my mind, and what I say is subject to correction—that the validation commission found that the Rhode Island Co. property was worth very much less than what we paid for it. I think the commission at the same time found that many others of our properties were worth a great deal more than what we paid for them.

Mr. MURRAY. Do you know what those properties were?

Mr. BUCKLAND. Yes; the Central New England Railroad Co. is one of them, and there are many others. The report shows it. I do not think it worth while to take up the time of this committee to go into that question. But as a result of the whole thing the validation commission, if I recollect correctly, found that our investments taken as a whole were worth more than what we paid for them.

Mr. MURRAY. I find at page 105 the total book value, the grand total, \$204,866,988.88, and in the next column the appraised value stated as \$184,319,763.26. Are there any other figures in these reports that you know of that would show the statement that you make?

Mr. BUCKLAND (looking at book). Yes; here is the Harlem River & Port Chester Railroad Co., which has a book value of \$25,000,000 and an appraised value of \$41,000,000.

Mr. MURRAY. That is a single item, of course. I mean in grand totals—in totals, anywhere.

Mr. BUCKLAND. I am not sufficiently familiar with the report on this to answer that question.

Mr. MURRAY. You have named two. Can you name any others that show an appraised value greater than the book value?

Mr. BUCKLAND. Yes. The most of them here.

Mr. MURRAY. The most of them? Does the Connecticut company show it?

Mr. BUCKLAND. Here is the New Haven & Northampton Co., with a book value of about \$1,000,000, and an appraised value of \$6,500,000.

Mr. MURRAY. That is three.

Mr. HARDWICK. Could not those figures be put in the record?

Mr. MURRAY. They can be put in the record, but that is where they have been going for the last six or seven years. They have been buried in the record, and I do not think we will get anywhere with them if we get them buried in the records.

Mr. HARDWICK. But we have not the time to do this now.

Mr. MURRAY. Of course I do not mean to ask these questions for any purpose other than to achieve the results that the people of New England wish to have achieved.

Mr. HARDWICK. We will read them.

Mr. MURRAY (continuing). That is why I suggest that I am in entire accord with your idea. This is not the place to extend the hearing. This is the sort of thing we can show, if we get a special committee, just as you could have shown by getting a special committee in the Lawrence situation instead of prolonging it as you did do, unfortunately. I say "unfortunately" because that is the point of view that has been expressed to me by the chairman and other members of the committee. But I do think there should be some kind of a congressional investigation that will get at the facts.

Mr. HARDWICK. Then you can get all those details of course?

Mr. MURRAY. Certainly. That is what I want to see done. Certainly the facts are there, and the people want to know about them, and they are entitled to know about them.

Mr. HARDWICK. You can put them all in the record.

Mr. MURRAY. There may be a reasonable explanation of this. If there is, the New Haven can not stand in the way of having it made, but it does seem that a company like the Rhode Island company with a book value of \$24,000,000, taken over in 1908, with an appraised value made by all kinds of accountants of only \$6,000,000 shows a situation of three-quarters water. Then we want to know why that is so.

The CHAIRMAN. That would come before that committee.

Mr. MURRAY. If we have one.

The CHAIRMAN. Certainly.

Mr. MURRAY. If we are going to have the committee I do not want to prolong this hearing.

Mr. BUCKLAND. These statements that Mr. Murray is apparently making for the record here have been made over and over again, accounting statements that can be answered in the time and place for it.

Mr. MURRAY. I do not hear them now.

Mr. BUCKLAND. Because I am not an accounting man.

Mr. MURRAY. You are here representing the railroad. It is not fair for Mr. Buckland to hide behind that statement.

The CHAIRMAN. Mr. Buckland is not to be subjected to cross-examination about this. He is making a statement. Now, if you want to

make a statement in rejoinder, you will have the right to do it, and put these figures in the record.

Mr. MURRAY. I certainly defer to any ruling that may be made by the chairman or by the committee through the chairman, but I do desire to give you the point of view that when a man comes here representing a railroad transportation company it gives us the opportunity to get information to which we are entitled, and in the most respectful way we are trying to get that information. Do not let us misunderstand one another. I do not want to be put in a false position here.

The CHAIRMAN. I think you have replied fully to that. Now, if you want to reply to anything he has said you can do it, or you can file your statements. I think we had better continue, because there are one or two other gentlemen we want to hear. We want to hear Mr. Walker on a point that has been raised.

Mr. BUCKLAND. My train of thought, to use a railroad expression, was flagged there.

Mr. MURRAY. A train can only be flagged when it once gets started, and I have not seen any start of that train of thought.

Mr. BUCKLAND. A statement was made by Mr. White yesterday regarding an analysis by Mr. Brandeis of the New York, New Haven & Hartford Railroad Co. accounts made at the time the acquisition of the Boston & Maine was contemplated, for the purpose of showing that the New Haven road was not in a financial condition to vote. That was entirely discredited by another investigation, by the so-called Industrial Commission of Massachusetts, and was completely discredited in the report of the validation commission.

Mr. MacLeod this morning stated that he felt that the only way in which the port of Boston could be developed, or rather the chief way in which it could be developed, was by having some other road come in there. I called the gentleman's attention to the fact that practically all the development of the port of Boston which has heretofore taken place has been done with the assistance of either the Boston & Maine or the New York, New Haven & Hartford. The last company which has been brought in, largely through the cooperation of the New York, New Haven & Hartford Co., has been the great trans-Atlantic company, the Hamburg-American Line.

I think I have taken altogether too much of your time.

I only wish to say in conclusion that we were investigated by Mr. French and Mr. Bonaparte in 1909; we were investigated by the Industrial Commission in 1907 and 1908; and we were investigated by the Validation Commission in 1910; and the Boston & Maine, and our control over it, has just been investigated by the New Hampshire commission. The Interstate Commerce Commission is now investigating us in New Haven and Boston, and the Committee on the Merchant Marine and Fisheries of the House of Representatives is also investigating our steamship lines.

Mr. HARDWICK. And the grand jury.

Mr. BUCKLAND. And the grand jury in New York. Thank you.

Mr. HARDWICK. So you are used to it. You will not care if we investigate you a little more?

Mr. BUCKLAND. Gentlemen, I have no objection to your investigations if you will not duplicate the work.

Mr. MURRAY. We will not.

Mr. BUCKLAND. If you will not duplicate the work; if you find out about some things that you do not know now and limit your investigations to those things which have not already taken our time, taken our attention, taken the service of our men away from the company which they ought to operate, I shall have no objection and shall cooperate with you heartily.

Mr. LENROOT. There is one other question I should like to ask. To what extent is there a substantial competition in transportation facilities in New England at the present time?

Mr. BUCKLAND. There is competition in the steamboat lines running on the Sound between New York and New Rochelle, New York and Greenwich, New York and Stamford, New York and Norwalk, New York and New Haven, New York and Norwich, New York and Providence, New York and Boston, New York and Block Island, Providence and Block Island, and Montauk and Block Island. There is competition by the Grand Trunk—a line of steamers running from New York to New London and thence up through New England. There is competition in the coal business by a great fleet of steamers, both tramp and regular lines, bringing coal to the ports of New England. There is competition via the Metropolitan Steamship Co. between New York and Boston and New York and Portland. There is competition by the Merchants and Miners' Transportation Co. from Boston and Providence to Philadelphia, Norfolk, Newport News, Baltimore, and Savannah. Those are all that occur to me right off the bat. I think I might think of some others.

Mr. LENROOT. That is the extent of the substantial competition, generally speaking?

Mr. BUCKLAND. The Bangor & Aroostook running from northern Maine—that is not shown on the map—transports its goods over a steamer line from Stockton Springs to New York.

Mr. HARDWICK. That would be the only railroad competition?

Mr. BUCKLAND. And there is competition, of course, by water between Boston and Canadian ports.

Mr. O'SHAUNESSY. I was not present during all of your statement, Mr. Buckland. Do I understand that the agreement which has been offered here in evidence was rejected by the Grand Trunk people?

Mr. BUCKLAND. I only know what I have seen in the papers.

Mr. O'SHAUNESSY. Do you know if any other agreement is being considered between the two railroad companies?

Mr. BUCKLAND. No, sir; I do not.

The CHAIRMAN. Is that all?

Mr. BUCKLAND. That is all.

The CHAIRMAN. Have you anyone else you wish to present on your side of the question?

Mr. BUCKLAND. No.

The CHAIRMAN. Mr. Walker, the committee will be glad to hear from you on the point you wanted to be heard upon this morning.

Mr. BUCKLAND. I should be glad to forward to the committee copies of these reports to which I have referred.

The CHAIRMAN. I think it would be well to file them with the clerk, so that we can consult them whenever we need them.

STATEMENT OF MR. ALBERT H. WALKER, NEW YORK CITY.

Mr. Chairman and gentlemen of the committee, I appear before you at the request of the chairman. I do not represent any client who has any interest in the New York, New Haven & Hartford Railroad Co., or in any other corporation which has been mentioned here to-day. I occupy the position of a jurist, and writer on questions in the interstate-commerce law and the Sherman law, to make such suggestions as have occurred to me relevant to the application of those laws to the facts which have been presented to the committee; and afterward to answer whatever questions may be put to me by the committee on any of these topics.

I have heard all that has been said during this inquiry, and I understand that the question before the committee is whether it shall recommend the House to appoint a special committee to make an investigation into certain points of fact.

The House has jurisdiction to investigate matters only where it has jurisdiction to take action in pursuance of whatever facts it may ascertain. That action may take the form of legislation, or it may take the form of impeachment of unfaithful executive officers. And without suggesting at this moment that there is any occasion to exercise this last jurisdiction, it is plain that whenever anything is brought to the attention of Congress which is worthy of consideration, and which lays the foundation for a suspicion that there might be some propriety in impeachment proceedings, Congress has jurisdiction to at least investigate the charges.

In order to apply the facts which have been developed in this hearing to the legal problems involved, it will be necessary for me to make a brief statement of some portion of the development of the jurisprudence which passes under the name of the Sherman law. The Sherman law was enacted by Congress in 1890, and I will read at this moment sections 1 and 2 of that act, which are very brief, and which are all that need to be read in order to explain the relation of that statute to the facts before the committee.

Section 1 of the Sherman law reads as follows:

Every contract, combination in the form of a trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States or with foreign nations is hereby declared to be illegal. Every person who shall make any such contract, or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding one year, or by both of said punishments in the discretion of the court.

The improper thing which is prohibited by this section is therein defined as combination in restraint of trade. This section does not prohibit restraint of trade which may be perpetrated by one corporation or by one man.

Section 2 is as follows:

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several states, or with foreign nations, shall be deemed guilty of a misdemeanor; and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both of said punishments in the discretion of the court.

Shortly after the beginning of the administration of President Roosevelt, he directed his Attorney General to bring an action against

the Northern Securities Co., the Great Northern Railway Co., and the Northern Pacific Railway Co., for violation of the first section of the Sherman law. The theory upon which that action was based was this, namely: A new corporation, the Northern Securities Co., was organized in the State of New Jersey, and that corporation purchased all the stock of the Great Northern Railway Co., and all the stock of the Northern Pacific Railway Co., with the view of running the two railroads as one system. That suit reached the Supreme Court of the United States, and in 1904 that court decided, by a vote of five judges to four, that that was an illegal combination, because it violated section 1 of the Sherman law. Four justices dissented from that decision. The dissenters were Chief Justice Fuller, Justice White, who is now Chief Justice, Justice Peckham, and Justice Holmes. Those justices dissented from the opinion of the Court on their view that a violation of the Sherman law does not result from a mere combination of two theretofore competing corporations, and that such violation does not occur until some overt act is committed in pursuance of such a combination, and which overt act results in restraint of trade. And in the view of Justice White and the three other dissenting justices, such overt acts had not yet been committed in the Northern Securities case, and therefore the Sherman law had not been violated.

But the opinion of the court was delivered by Associate Justice Harlan, and he took the ground that the acquirement of combined power to restrain trade violates the Sherman law, because it constitutes a combination which potentially will operate to restrain trade. Three judges of the Supreme Court agreed with Justice Harlan in all respects. Justice Brewer did not agree with the proposition that the mere acquirement of the power to violate the Sherman law constitutes a violation thereof, but he did agree that the Sherman law had been violated in that case. So that combination was dissolved by a vote of five justices against four.

That is the law that was established in that litigation. Afterward the question arose as to whether the purchase by one corporation of the controlling stocks of a competing corporation constituted a violation of the Sherman law. In support of the affirmative of that proposition the decision of Justice Harlan could be cited. In support of the negative the dissenting views of Justice White could be cited.

That was the state of the law at the time that the United States Steel Corporation desired to acquire the ownership of the Tennessee Iron & Coal Co. When they acquired that desire they were afraid that the executive department of the Government might differ from their views. They held that the mere acquirement of the stock of the Tennessee Iron & Coal Co. would not violate the Sherman law, for they might use it to promote trade rather than to restrain it. In that view of the case they presented to President Roosevelt the question as to whether or not he had any objections, as the executive department of the Government, to the purchase of that stock. I know the view that President Roosevelt took of that matter as a result of personal correspondence between himself and myself upon that precise point, and the view he took of it was rather well founded upon the Northern Securities case.

The view he took of it was that the acquirement of the stock of the Tennessee Iron & Coal Co. did not violate the Sherman law, although

the ownership of that stock might afterward be used to violate that law; and therefore when he said to the gentleman who represented the United States Steel Corporation, that he saw no objection to their purchase of that stock, he was substantially saying to them: "So far as I know, you may use this stock after you have acquired it, to promote trade; but if you do use it to restrain trade, then you will be violating the law." It was in pursuance of that view of the Sherman law, which view was originally based upon the opinion of Justice White, in the Northern Securities case, that President Roosevelt, as I understand it—

Mr. HARDWICK. If you will pardon me just a moment, I will say that that very opinion which you refer to had been denounced in round terms by President Roosevelt all through this country.

Mr. WALKER. To which opinion are you referring?

Mr. HARDWICK. The original opinion in the Northern Securities case.

Mr. WALKER. I am unable to say that. I am pretty well acquainted with the history of the matter; but I am not able to agree with you upon that point. You know some facts, probably, that I do not know.

Mr. HARDWICK. I thought that was true.

Mr. WALKER. You could not prove it by me. [Laughter.]

It was in pursuance of that view of the Sherman law, as I understand it, that President Roosevelt acquiesced in the purchase by the New York, New Haven & Hartford Railroad Co. of those competing steamboat lines.

Mr. HARDWICK. I do not want to have a joint political debate with the gentleman, but I am willing to if he wants to put it on that ground. I thought he was discussing a question of law. I think the President's action in that matter was based on entirely different motives from that.

Mr. WALKER. I am not inquiring into his motives.

Mr. HARDWICK. I think you are. You are trying to make a defense of him, right here, about this matter.

Mr. WALKER. I am trying to explain to the committee what I know about the development of the Sherman law, but I am not agreeing with President Roosevelt. I do not agree with his views on the Sherman law, I will tell you that now.

Mr. HARDWICK. You do not?

Mr. WALKER. I do not.

Mr. HARDWICK. Where did you get the idea that that was the reason why he gave that Tennessee Coal & Iron Co. opinion?

Mr. WALKER. Because he wrote so to me personally, and I have the letter.

Mr. HARDWICK. That has never been published, has it?

Mr. WALKER. Certainly not.

Mr. HARDWICK. When did he make that explanation of his conduct in that matter?

Mr. WALKER. He wrote that letter to me about two years ago, since he came back from Africa.

Mr. HARDWICK. I am much obliged to you. Now I have what I want.

Mr. WALKER. Gentlemen, you will see the strict relevancy to my discussion of all I am saying. I am not trying to insert any remarks

in the interest of any particular gentleman. I am trying to explain to you the development of the Sherman law in executive and judicial proceedings. In 1908—and I must beg the committee to listen to this——

Mr. HARDWICK. I beg your pardon; but to correct the statement I made. I said that President Roosevelt had denounced certain decisions of the Supreme Court. The cases I had in mind—I want to say this in justice to myself as well as to you—were the trans-Missouri and the joint traffic cases, which preceded the Northern Securities case.

Mr. WALKER. In 1908, President Roosevelt brought two newsuits under the Sherman law, one against the New York, New Haven & Hartford Railroad Co. for having acquired the Boston & Maine railroad, and one against the Union Pacific Railroad Co. for having acquired the control of the Southern Pacific.

The CHAIRMAN. Mr. Walker, what the committee wished to get at from you was this point; whether the Sherman law in its operation could reach conspiracies against trade entered into between a corporation in this country, and one in England or Canada.

Mr. WALKER. I am leading directly up to it, and I shall reach that point in not more than five minutes. President Roosevelt brought suit against the Union Pacific and Southern Pacific for an illegal combination; and almost at the same time he brought suit against the New York, New Haven & Hartford and the Boston & Maine railroads for illegal combination; and those suits were pending at the end of his administration.

Near the beginning of the administration of President Taft, he became persuaded, as did his Attorney General, Mr. Wickersham, that the facts of the case in New England as between the Boston & Maine and the New York, New Haven & Hartford Railroad Cos. did not constitute any restraint of trade under the Sherman law. And in pursuance of that persuasion he directed the Attorney General to withdraw, and the Attorney General did withdraw that suit. About the same time the Union Pacific people applied to President Taft to withdraw the Union Pacific suit, and those applications were based upon the same theory—and it was a plausible theory too—namely, that the competition that existed between the Union Pacific and the Southern Pacific was negligible and incidental and not essential, and that the competition between the New York, New Haven & Hartford and the Boston & Albany was incidental and not essential. Afterwards in the case of the Union Pacific road, two years after the New Haven case was withdrawn, the United States Circuit Judges, for Utah, four in number, decided that that view was the correct view, and that the competition between the Union Pacific and Southern Pacific was incidental, and therefore its suppression was nonviolative of the law. If that view of the law had been applied to the New York, New Haven & Hartford combination, perhaps the same result would have been reached. And it was on account of that view of the law, that the New York, New Haven & Hartford suit was withdrawn.

But a week ago last Monday, I was in the Supreme Court chambers when the Supreme Court reversed the decision of the court below in the Union Pacific case; and held that the competition proved in that case, however small it might be in proportion to the magnitude

of the entire business of the two roads, was of such a character that its suppression constituted a violation of the Sherman law, and therefore that the two corporations must be divorced.

Now I come to one exact point involved here. The moment that decision is applied to the New York, New Haven & Hartford consolidation with the Boston & Maine Railroad, the same conclusion must be reached, and the view Mr. Buckland intimated that that consolidation was an innocent one, ought to be revised by him in the light of the Union Pacific decision. With a thorough acquaintance of the facts of the two cases, and with a thorough acquaintance with the law, I wish to express to this committee my opinion that the moment the decision of the Supreme Court of the United States in the Union Pacific Co. case, is applied to the New York, New Haven & Hartford, and the Boston & Maine consolidation, the same result will have to be reached, and those two corporations must be divorced. How is that result to be reached? There is no occasion for Congress to pass any new law to accomplish that result. It can be reached under the Sherman law, just as well as the Union Pacific divorce was reached under the Sherman law. And the circumstance that Attorney General Wickersham withdrew that suit is no obstacle to bringing a new suit for the same purpose, and pressing it forward under the view of the law which is now well established in the Union Pacific case. Therefore there is no occasion, for Congress to do anything towards promoting the divorce of the New York, New Haven & Hartford Co. and the Boston & Maine Railroad Co.

In respect of the facts which have been brought before the committee, and complained of, by the gentlemen who represent Providence and Boston, relevant to the building or not building of the Southern New England Railroad by the Grand Trunk Railroad Co., I wish to make some observations which have not been made before.

It appears to me that the cessation of the building by the Grand Trunk Railroad Co. in Massachusetts and in Rhode Island has not been due (or at least it is unprovable that it has been due) to any combination between that corporation and the New York, New Haven & Hartford Railroad Co. I think that if this committee investigates that question it will find that the New York, New Haven & Hartford Railroad Co. ardently desires that the Grand Trunk Railroad Co. shall not build those railroads, and in order to promote that desire, the New Haven company is proposing to the Grand Trunk Railroad Co. a joint contract which shall be so favorable to the Grand Trunk Co. that it will not need or desire to build the New England extensions. If that turns out to be so, what can Congress do about it? Congress can do this about it, and nobody can do about it, what I am about to suggest, without new legislation.

I hold this view: On the assumption of the truth and accuracy of the statements which have been made by the gentlemen here, the Grand Trunk Railroad Co. is being tempted to work a fraud on the State of Massachusetts and on the State of Rhode Island. The Grand Trunk Railroad Co. has fairly made a contract with those States; which contract provides that, under certain considerations, performed by the two States, the Grand Trunk Railroad Co. will build a railroad from Palmer to Providence, and one from Woonsocket to Worcester, and one from Woonsocket to Boston.

Now, if the Grand Trunk Railroad Co. fails to do that, if it repudiates its fair contract, then I hold that Congress has power to enact

a statute to prevent the Grand Trunk Railroad Co. from doing any business anywhere in the United States until it does perform that contract. Congress can do that, in pursuance of its power to regulate commerce among the several States and with foreign nations. I think it is perfectly undeniable that Congress has power to enact a statute, in general terms, but applicable to these facts, which would operate to say to the Grand Trunk Railroad Co., "You must carry out your contract with Massachusetts and Rhode Island; for if you do not do it, you will not be permitted to do any railroad business in Maine, Massachusetts, Vermont, New Hampshire, or anywhere else in the United States."

Mr. GARRETT. Mr. Walker, will you pardon me there a moment?

Mr. WALKER. Yes, sir.

Mr. GARRETT. The corporate name of this concern is the Southern New England, and not the Grand Trunk Railroad Co.

Mr. WALKER. I know that. I deem that immaterial; because it is the Grand Trunk Railroad Co. which has made its promise to the two States. The Grand Trunk Railroad Co. can perform that promise through the Southern New England Railroad Co. or by any other instrumentality; but the Grand Trunk Railroad is bound in ethics and bound in morality to perform its contract with the State of Massachusetts and with the State of Rhode Island. It is competent for Congress if Congress, in its wisdom, sees fit to exercise that power, to enact a statute which shall make it obligatory upon the Grand Trunk Railroad to perform that contract, upon penalty of being excluded from the United States altogether.

Mr. GARRETT. Because it is a foreign corporation.

Mr. WALKER. That is right. Under the power to regulate commerce between the several States and with foreign nations I have not the slightest doubt that Congress has that power. Now, if Congress has that power it can exercise it, and I know of no way—and I have studied the matter very carefully since I have attended these hearings yesterday and to-day—I know of no way short of that, or other than that, by means of which the wrong can be stopped, which the Grand Trunk Railway Co. is seeking to perpetrate upon Massachusetts and Rhode Island. That wrong can not be stopped by any action of either of those States, because it relates to international commerce and to interstate commerce. I do not believe that this is possible for our friends from Massachusetts and Rhode Island to secure any redress for the wrongs of which they have complained to this committee, unless Congress will enact such a statute as I suggest.

The CHAIRMAN. Mr. Walker, I find that some members of the committee have imperative engagements, and they have just suggested to me that if you would file some additional views, the committee would be much obliged, but we have to take a recess now on account of these imperative engagements.

Mr. WALKER. This is a very suitable end to my remarks; because my suggestion of remedy—and the only remedy that I know of, for the wrongs complained of—is the principal thing I had to lay before the committee.

The CHAIRMAN. I agree with you, and think you are correct about that.

Thereupon the committee adjourned.

[Statement of Lynn W. Wilson to the House Committee on Rules, favoring an investigation of the New York, New Haven & Hartford Railroad Co., as proposed in H. R. ——— by Mr. O'Shaunessy.]

As of date of June 30, 1906, the New York, New Haven and Hartford Railroad Co. operated 2,056 miles of railroad in New York and New England.

It reported, after paying dividends, a surplus for the year of \$3,718,285.41.

Upon May 31, 1907, the New Haven road merged "with and in the Consolidated Railway Co.," a Connecticut corporation engaged in the street railway business, which had acquired some steamboats.

As a result of this merger the capital stock of the New Haven road was immediately increased by more than \$150,000,000.

It must be understood that, after merging in and with the Consolidated Railway Co., the old New Haven road ceased to be. It had become a street railway corporation with large powers; virtually a holding company.

But the new corporation kept the name "New York, New Haven & Hartford Railroad Co."

The effect of this merger was immediately shown in the income account of the new corporation.

As of date of June 30, 1908, there was a deficit of \$2,516,692.85.

In two years a surplus of more than \$3,000,000 became a deficit of more than \$2,500,000.

Yet in 1908 the steam road, which had been the chief and almost sole property of the old New Haven company increased its income from operation by more than \$3,000,000.

What had happened?

The profits from the conduct of the steam road business were being applied to pay interest and dividends on the vast amount of securities issued for "other properties."

The steam road properties were rich. They had a monopoly of railroad transportation over a large part of New England, but they were not productive enough to carry the dead weight of water, representing trolleys and steam boats, that had been laid upon them.

The steam road stock in 1906 was in the hands of a great many persons, including some widows, some orphans and some trust funds.

Some of this steam road stock—the old New Haven—had been purchased as high as \$208 a share.

The effect of the merger was to depreciate the value of this stock and it is sometime since it has commanded in the market \$135 a share.

Before the merger, the stock of the New Haven road was four times the debt.

After the merger, the debt was double the stock.

Today the New Haven company has attached to it more than 20 subsidiary companies.

Some of these report in one State, some of them in another, some of them to the Interstate Commerce Commission and some of them to no public authority.

The New Haven company has authority to issue stocks and bonds at its discretion and without public supervision.

This power is given by its charter in Connecticut.

This power is the source of the revenue by which it has been enabled to acquire its "other properties."

It can continue to acquire "other properties" in the same way until the steam road property becomes bankrupt with the burden placed upon it, and the owners of the old steam road stock are entirely deprived of the values which formerly belong to them; unless public authority shall intervene.

Remedies can not be properly applied without an investigation of the whole New Haven system and a consideration of its methods of finance and the merger of 1907, its objects and results.

I suggest that supervision of issues of stock and bonds of this company—and all railroads—should be lodged with the Interstate Commerce Commission, with the right of appearance to interested persons.

Had such supervision existed in some Federal tribunal it is unlikely that this company would have been permitted to squander and dissipate the property of its steam roads in interstate commerce, by the purchase, at excessive prices, of trolley lines and steamboats.

Unquestionably the effect of the merger of 1907 and other mergers of later date has been a monopoly of transportation by sea and land, as has been suggested by Mr. Norman White.

But whether monopoly was the primary object of these financial arrangements, or whether the prime object was to leech from the rich New Haven steam roads their productive power, for the benefit of promoters of trolley roads and steamboat lines, is a matter for Congress to determine by suitable inquiry.

It will suggest itself to your committee, that if monopoly was the prime object, that this monopoly was sought for the benefit of the steam road stockholders the holders of the stock prior to May 31, 1907.

But, it appears, that the steam road stockholders were not benefited. Their great profits largely disappeared; their great surplus of more than \$3,000,000 in 1906, became a deficit of more than \$2,500,000 in 1908, although their steam lines had increased earnings more than \$3,000,000 within this period.

Their stock has decreased more than one-fourth from its original value, and their equities are burdened with an enormous debt, which did not before exist.

But if it is assumed that the managers of the steam road property desired to enrich the certain persons who owned the trolley lines and the steamboat companies, the merger of 1907 takes on a reasonable aspect.

It must have benefited the owner of a share of trolley stock, purchased at a sum four or five times greater than the dividends upon that share warranted.

It must have injured the steam road property to acquire such share upon those terms.

It has injured the railroad property, as well as the railroad stockholders, as I have shown.

It is not for the best interest of the people of the United States that any State should have power to issue charters to create monopoly, and which are virtually letters of marque to prey upon the commerce of other States.

It is not good for the people of the United States that railroads in interstate commerce shall be leached by a financial process until they are unable to perform properly the functions for which they were intended.

There is a direct connection between the depleted financial condition of the New Haven steam road system and the many wrecks which have recently occurred upon its lines.

No State has power to reach these conditions. The Federal Government has the power. I urge upon your committee the duty that you recommend the exercise of the Federal power for the improvement of these conditions.

Respectfully,

LYNN W. WILSON,
Representative-elect to the General Assembly of Connecticut.

BRIDGEPORT, CONN., *December 16, 1912.*

HOUSE OF REPRESENTATIVES UNITED STATES,
COMMITTEE ON PATENTS,
Washington, D. C., December 11, 1912.

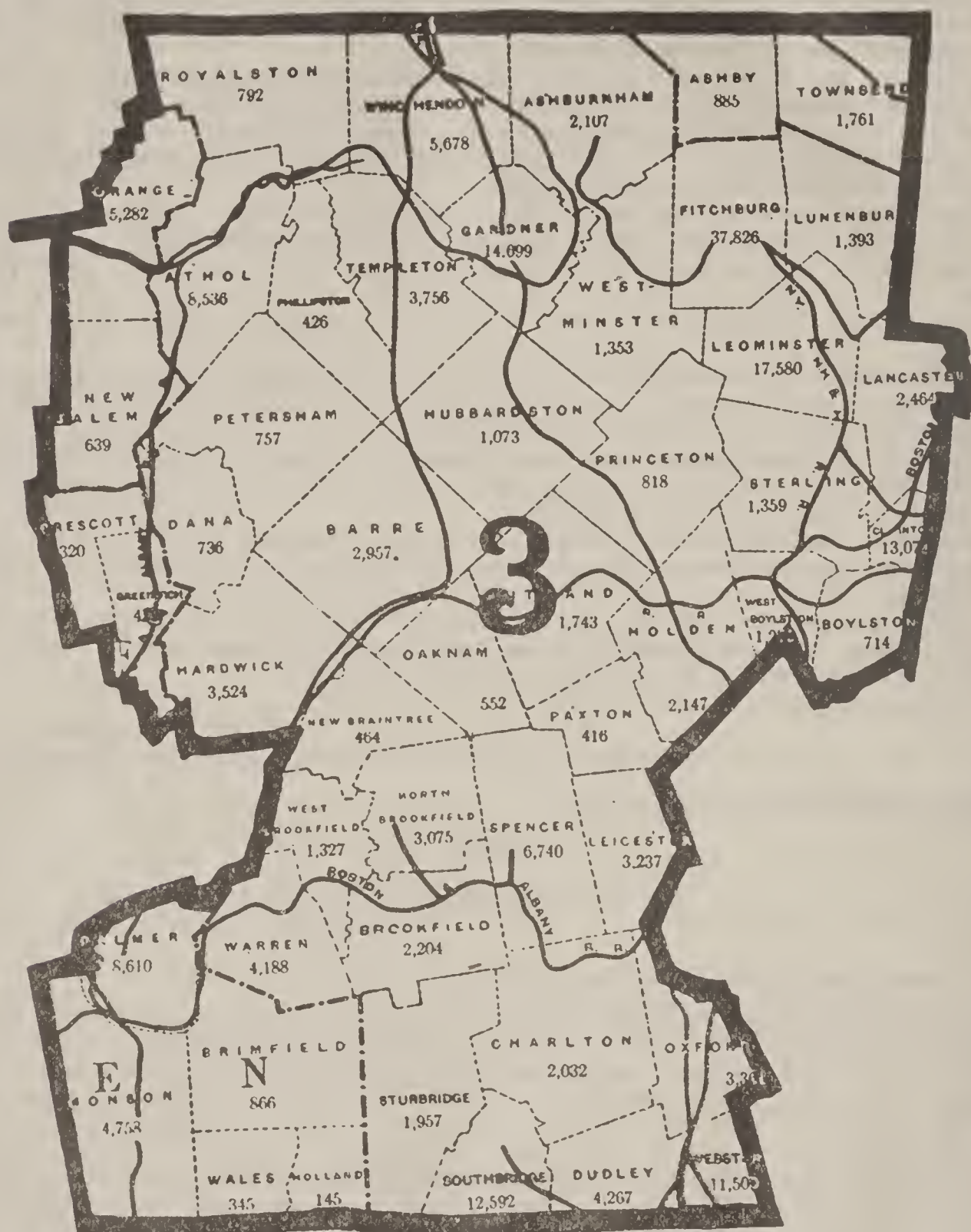
Mr. Chairman and Gentlemen of the Committee:

I am not as familiar with these Grand Trunk and New Haven proceedings as many of those who have addressed the committee. The substantial well-known facts, however, from which at least some deduction may reasonably be made, are as follows:

These activities in Massachusetts are not in the old fourth district which I represent, but they rather are in the districts of Congressmen Gillett and Thayer, but the entire activities in Massachusetts, so far as the construction is concerned which has been stopped, are in the new third Massachusetts district in which I have been elected for the Sixty-third Congress. This district runs through the State from New Hampshire to Connecticut. Its east and west portion on the south includes the Boston & Albany Railroad from Springfield to Worcester, excluding only Wilbraham, and its line into Providence starts from Palmer, the next town east of Wilbraham and in the new third district, a map of which I present, and runs through Southbridge and other towns on the southerly end of the district. At various places they have done quite extensive work, and the way they have left it, it is a pretty bad looking mess. The damage is, of course, irreparable, for many arrangements have been made with property owners on the basis that the road is going through. They wouldn't have had the places torn up anyway otherwise.

It is of course manifest that the Grand Trunk had a reason for beginning, which must have been an urgent one, inasmuch as it took some pretty strenuous activity in Massachusetts and, I understand, in Rhode Island, to obtain their right of way with the right of condemnation, and one can not well refrain from the belief that there is a snake in the grass or a nigger in the woodpile somewhere, and possibly both, yet we ought not perhaps to assume the doctrine of the celebrated Mr. Hennesy, who says that our criminal procedure in this country is that a man is "guilty until he is proved to be guilty, and then he is innocent." Still there are two conclusions that seem to me normal and almost inevitable: First, that it is a matter that should

be looked into by a competent body, inasmuch as it doesn't seem to be within the province of the Interstate Commerce Commission, because it is not a matter of railroad rates or administration, and second, it is an interstate problem, for it is in Massachusetts and Rhode Island, and, indirectly, because of further announced plans and



The New Third Congressional District

HON. WILLIAM H. WILDER

Republican Candidate for Renomination

JUDSON I. WOOD

74 Woodland Ave., Gardner, Mass.

connections of the Grand Trunk system, Connecticut, Vermont, and New Hampshire, and Congress is the only body that has the power to get at the facts and apply a remedy in the case, which the public are entitled to and in which they have such a vital interest.

WILLIAM H. WILDER.

BRIDGEPORT ACCIDENT.

[Report of H. W. Belnap, chief inspector of safety appliances to the Interstate Commerce Commission.]

AUGUST 16, 1911.

INTERSTATE COMMERCE COMMISSION, *Washington, D. C.*

DEAR SIR: On July 11, 1911, train No. 72, Federal Express, eastbound, on the New York, New Haven & Hartford Railroad, was derailed near Bridgeport, Conn. The message reporting the accident was received by the commission the following morning.

I was in New York City at the time and shortly after noon received a long-distance telephone communication from Commissioner McChord relative to the accident, and, realizing its magnitude and the importance of a thorough investigation, I immediately went to Bridgeport, arriving on the scene of the accident at 5 p. m., July 11, and had opportunity to look over the wreck and all the signals involved before very much of the wreckage had been removed and before the track had been repaired. It would have been impossible to have been on the scene of the accident as promptly had it not been that extra editions of the press contained reports of the accident, which furnished the information on which we acted.

A proper compliance with the order of the commission of June 21, 1911, requiring railroads to give notice by telegraph immediately after the happening of the accident would have placed such message in the office of the commission shortly after 9 a. m. on the morning of July 11, 1911.

At 3.32 a. m., July 11, 1911, the eastbound Federal Express, known as train No. 72, on the New York, New Haven & Hartford Railroad, consisting of engine 813; Department of Commerce and Labor Fish Commission car No. 4; Pennsylvania Railroad baggage car No. 5528; New York, New Haven & Hartford Railroad day coach No. 518; and six Pullman sleepers, was derailed, with the exception of the last two sleepers, at the crossover known as Burr Road crossing, about $1\frac{1}{2}$ miles west of Bridgeport, Conn. This derailment resulted in the death of the engineer, fireman, one employee not on duty, and 11 passengers, and the injury of 40 passengers, many of them seriously. The greater number of fatalities were in the day coach. Train No. 72 left Harlem River, its western terminal, at 1.52 a. m., 57 minutes late. The engine was in charge of Engineer Curtis and Fireman Ryan, and the train made 11 stops between Harlem River and the place of the accident, which would indicate that the air brakes were in good working condition.

After the derailment the engine and cars destroyed the south girder of an 85-foot span steel bridge that crosses Fairfield Avenue, ran along the ties and the ground until overturned, and were thrown down an embankment into the street below. The engine laid more than 400 feet from the point of derailment, which indicates the high speed at which the train was running at the time of the accident.

This section of the New York, New Haven & Hartford Railroad is equipped with controlled manual block signals, which the evidence and investigation show were in good working condition. Train movements are governed by the signals displayed and train orders are not used (except in case of moving a train against the current of traffic). The engineer can tell by the signal displayed which track his train will use, whether it shall stop, proceed on the same track, or diverge to another track or route. From time to time, to facilitate the movement of trains, it is necessary that their route be changed from track to track as conditions of traffic require. These crossover movements are directed by the train dispatcher, who notifies the tower signal man when he shall divert a train from one track to another. Train No. 72, with nine cars, was received by the dispatcher on this district on track No. 2, closely followed by fast mail train No. 34, with six cars, which was received on track No. 4, the intention being for train No. 34 to pass train No. 72, which it did before reaching Bridgeport. Train No. 72 had Department of Commerce and Labor Fish Commission car No. 4 to leave at Bridgeport, and to set out this car it was necessary that train No. 72 be on track No. 4. Some 10 or 15 minutes prior to this accident the train dispatcher directed the operator at Burr Road tower to divert train No. 72 from track No. 2 to track No. 4. The accident occurred at this crossover, and the switches and signals governing the crossover had been set and locked for this train before its arrival to enable the train to leave track No. 2 and continue on track No. 4.

This crossover is governed by semaphore signals which are in plain view of the engineer of an approaching train. In addition to these semaphore signals, a dwarf signal, located near the switch, indicates whether or not a crossing is to be made.

The interlocking plant is not equipped with approach locking to prevent signalmen from changing the switches of a route while a train is closely approaching them. While all the evidence shows that the absence of approach locking did not in any way contribute to this accident, it might, in case of confusion of the signalman, result in

trains being improperly diverted after switches and signals had been set for them to proceed on the main track and might be the means of causing similar accidents.

The New Haven roadbed in this locality is on a fill and carries four main tracks laid with 100-pound rail on stone ballast, very well constructed and maintained. Located on a tangent, bounded on the west by a 57-minute curve and on the east by Fairfield Avenue Bridge, 85 feet in length (through plate girders, tie floor), is a standard No. 8 double-slip ladder switch extending across all four tracks and installed to serve an important industrial track which leads, facing off track No. 4 east of Fairfield Avenue Bridge, to the street level, where manufacturing plants are located. The design and construction of the track, switches, movable points, frogs, and other appurtenances of this slip-ladder switch, which is, in effect, a combination of a straightaway connection from track No. 2 clear across the four tracks to track No. 4 with three crossovers between adjacent tracks, is good and substantial, and no portion of the track structure failed until after, and as a result of, the derailling of wheels of train.

The rather scant difference in grade between Fairfield Avenue and the railroad track itself at Fairfield Avenue Bridge, and considerations of safety in case of damage to the structure by derailment (a street railway line crossing the right of way under this bridge) evidently led to the use of through girders rather than deck girders on this bridge and to the placing of girders between all tracks, which construction prevents the installation of crossovers on the bridge itself; and this means that the easterly end of any crossover located west of the bridge could not be farther east than the westerly line of the bridge itself. The No. 8 double-slip ladder used takes up practically all the available tangent west of Fairfield Avenue Bridge; hence, any longer crossover would extend so far west as to compel its location partly on the curve west of the tower. The lowest numbered crossover that can be reasonably expected to carry trains safely at 60 miles per hour is an 18 or 20. If such crossovers were used in place of the No. 8 double-slip ladder, they would, of necessity, extend out onto the curve a distance of about 1,000 feet. When a crossover is located upon a curve having a given superelevation of the outer rail, one-half of the crossover will have this same superelevation in the right direction and the other half will have it in the wrong direction. On account of this superelevation in the wrong direction the likelihood of derailment in operating over crossovers located on curves is so great as to lead railroads to use every effort to locate their crossovers on straight track.

The New York, New Haven & Hartford Railroad Co. restricts the speed of trains both by signals and by rule when taking crossovers. On one type of crossover, known as a straight crossover, the speed is restricted to 25 miles per hour or less; on another type, known as a slip crossover, such as was used at Burr Road, speed is restricted to 15 miles per hour or less. Time-card rule No. 2 reads as follows:

"Trains while passing through slip switches must not run at speed to exceed 15 miles per hour.

"At crossovers, except where speed is restricted to less, no train must exceed a speed of 25 miles per hour while passing through crossover from one main track to another."

In addition to this rule, train movements over these crossovers are governed by signals that indicate to the engineman the speed permitted while making the crossover movement. Crossovers on which a speed of 25 miles per hour is permitted are governed by high semaphore signals; crossovers on which a speed of but 15 miles per hour is permitted are governed by dwarf signals located on the ground near the switch points of such crossovers.

The distant signal at Burr Road crossover was set at caution; the home signal was set at danger, and the dwarf signal was set so as to indicate to the approaching train that it was to cross over from track No. 2 to track No. 4. The distant signal is located 2,187 feet west of the home signal. The home signal can be distinctly seen from the distant signal, but on approaching the crossover the view is obstructed for a short distance by a large tree until within about 1,000 feet of the home signal, from which point the view is clear again. The dwarf signal can be plainly seen a distance of more than 650 feet.

Investigation shows that Mr. Curtis, the engineman; Mr. Ryan, the fireman; and Mr. Hemingway, the towerman, had none of them been on duty longer than the time permitted by the Federal statute. Mr. Curtis, the engineman, had been off sick with the measles in April, but had apparently entirely recovered, and he had reported and gone on duty some three weeks prior to this accident. The service records of all these employees are good, and they were considered thoroughly reliable and competent men.

Mr. Curtis had been in the employ of the New York, New Haven & Hartford Railroad Co. on this division since October, 1897. He was promoted to an engineman in November, 1904, had handled this particular train before, and had handled other

fast passenger and freight trains over this division. He was familiar with the rules, tracks, and signals at the place of the accident.

The accident was caused by the train crossing from track No. 2 to track No. 4 at a high rate of speed, estimated at between 55 and 60 miles per hour.

Why the engineman should disregard both the signals and the rule governing this crossover, and not control the speed of the train while crossing from track No. 2 to track No. 4, knowing that Department of Commerce and Labor Fish Commission car No. 4 was to be set out at Bridgeport, and this crossover was the only place left that such crossing from track No. 2 to track No. 4 could be made before reaching Bridgeport, is a question as to which there is now no evidence, and any attempted explanation would be a mere matter of conjecture.

The distance the engine went after the derailment indicates unquestionably the high rate of speed of the train. This is fortified by the concurrence of the direct testimony of all witnesses.

High speed was permissible and safe if the train was to have continued on track No. 2. This speed, however, was manifestly dangerous when a crossover was to be made, as in the case of this train.

The speed of the train was in the sole control of the engineman. If he knew that the crossover was to be made at this point, he should have reduced speed to 15 miles an hour or less. There is no direct evidence that he knew that the crossover was to be made at this point. He did know that the Department of Commerce and Labor Fish Commission car was to be left at Bridgeport. He was familiar with the tracks at this point and knew that this was the last crossover which would permit the train to reach track No. 4 before reaching Bridgeport.

As he was approaching this point, even if he had no knowledge of the necessity of crossing over from track No. 2 to track No. 4, it still remains true that at the time he was within 2,200 feet of the point of derailment (if he was conscious) he must have realized from the signals which were displayed that he must either stop before passing the home signal or prepare to take the crossover, and that in using the crossover, by the rules and signals displayed, he must reduce his speed to 15 miles per hour or less.

It is probable that if a No. 18 or 20 crossover had been used at this point, train No. 72 would not have been derailed while passing over it at 60 miles an hour. It is, however, unreasonable to suppose that physical conditions will not frequently exist upon railroads where the use of such long crossovers is not practicable for the purpose of diverting trains from one track to another at maximum speed with safety, just as it is impracticable that any railroad should not have in its main track any curves over which trains might not be operated at maximum speed with the same safety as on straight track. Long crossovers are introduced primarily to save time in crossing over, as the speed reduction necessary to take short crossovers causes delay. As regards overturning, the same conditions apply to facing turnouts at junction points or leading into sidings or yards as apply to crossovers, but it is apparent that in entering sidings at high speed the danger from collision with cars standing on the siding is greater than the danger of derailment; hence the use of long turnouts for entering sidings would tend to eliminate a smaller percentage of accidents than would the use of long turnouts in main-line crossovers. While it is urged that as an extra precaution all crossovers used for diverting trains from one main track to another in the direction of traffic should be long enough to reduce to a minimum the risk of overturning if they are taken at high speed, the proper thing to do is to prevent the high speed where it ought not to be used. This can be accomplished by the use of automatic train-control apparatus with proper speed-control features. From the present rate of progress being made in the development of such devices, it is apparent that it is going to be some time before railroads are thus equipped; and until such installations are in use, railroads should require that whenever a train is to be diverted from one main track to another upon which the current of traffic is the same, at any crossover less than, say, No. 18 or 20, the switches shall be left as set for the straight route, stop signals displayed, and crossover shall not be set for the diverging movement until after the train which is to make the movement has stopped.

As a result of the investigation the following facts are disclosed:

(1) This accident was caused by a disregard on the part of the engineman of signals and rules provided by the railroad company to prevent the occurrence of such accident.

(2) The signals and rules provided by the railroad company for the prevention of such accidents were adequate had they been observed.

(3) The tracks and switches were substantially constructed and safe for the train movement made had the rules been observed.

(4) The interlocking and block signaling apparatus performed their intended functions and were properly handled, though no approach locking was installed.

(5) While the accident was due, as stated, to disregard by the engineman of the rules and signal indications, it is probable that the disastrous consequences of such disregard of rules and signals might have been prevented had it been reasonably practicable to have installed a No. 18 or No. 20 crossover instead of a No. 8 slip, and had same been used at this point.

As a preventive of such accidents, it is recommended:

(1) That in all situations where accidents are likely to occur through the non-observance by enginemen of signals or rules calculated to insure safety, automatic train-control apparatus should be provided to insure that trains will be brought to a stop in case the signals or rules are not properly observed.

(2) That in the absence of such automatic control apparatus on tracks where high-speed trains are run switches should not be set to divert a high-speed train from one track to another at a crossover which is not safe for high speed until after the train has been brought to a stop.

(3) That at all interlocking plants where trains are operated at high speed over facing switches approach locking should be provided to prevent the switches being changed from the main or through route to a diverging route after a train has received the signals for the through route.

Respectfully submitted.

H. W. BELNAP,
Chief Inspector of Safety Appliances

2. Truck

LIBRARY OF CONGRESS



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